

URS DISPUTE

Dispute number: **9D428944**
Determination **DEFAULT**

I. PARTIES

Complainant: Gefran Spa
Giovanna Franceschetti
Via Sebina, 74, 25050, Provaglio di Iseo, Italy

Complainant's Authorized Repr.: Convey Srl
Michele Provera
Via Sagra di San Michele, 27, Torino, Italy

Respondent: **Yuan Wei Guo Ji Mao Yi (Wu Xi) You Xian Gong Si NA**

II. THE DOMAIN NAME(S), REGISTRY OPERATOR AND REGISTRAR

Domain name: **gefran.store**
radix fzc
47.90.59.144
alibaba cloud computing ltd. d/b/a hichina

III. PROCEDURAL HISTORY

Complaint Submitted: 2020-02-06 17:51
Lock of the Domain name(s): 2020-02-14 00:58
Notice of Complaint: 2020-02-14 15:12
Default Date: 2020-02-29 00:01
Notice of Default: 2020-02-29 11:37
Panel Appointed: 2020-02-29 11:42
Default Determination issued: 2020-02-29 17:18

IV. EXAMINER

Examiner's Name: **Paddy Tam**

The Examiner certifies that he/she has acted independently and impartially and to the best of his/her knowledge has no known conflict in serving as the Examiner in this administrative proceeding

V. RELIEF SOUGHT

The Complainant requests that the domain name be suspended for the balance of the registration period
The Respondent has not filed a Response

VI. STANDARD OF REVIEW

Clear and convincing evidence.

VII. DISCUSSIONS AND FINDINGS

A. Complainant

The Complainant is a legal corporate entity registered in Italy who provides automation devices for machine control, sensors to measure position, pressure, temperature and force for mobile hydraulics and metal working machines, indicators, alarm units and power units for electrical furnaces, inverters for lift sector, inverters and regenerative power supplies for hoist and crane systems, inverters for industrial water treatment and HVAC applications.

The Complainant is the owner of the trademark GEFRAN with several international and national trademark registrations worldwide, including:

European Trademark no. 017641853 "GEFRAN" - Cl. 7, 9, 16, 35, 42 ;

European Trademark no. 004435152 "GEFRAN" - Cl.7, 9, 42 ;

International Trademark no. 901328 "GEFRAN SIEI" - Cl.7, 9, 42 designating also China;

International trademark no. 852323 "GEFRAN" - Cl.7, 9, 42;

Italian Trademark no. 0000796756 "GEFRAN" - Cl. 9;

Today the Complainant has 900 employees in its production facilities worldwide, including in China - where the Respondent is based - and 17 sales offices located around the world with revenues of about EUR 135,000,000 . The Complainant has spent considerable effort in promoting this mark and registered several domain names consisting of or comprising the trademark GEFRAN under several different TLDs, including <gefran.cn>, <gefran.com.cn> and the corresponding websites generate a significant number of visits, as the accounts on the social media LinkedIn and YouTube.

The Complainant asserts the following regarding the Respondent:

1. The registered domain name is identical or confusingly similar to a word or mark [URS 1.2.6.1]: for which the Complainant holds several international registrations and that are in current use.
2. Registrant has no legitimate right or interest to the domain name [URS 1.2.6.2]
3. The domain name was registered and is being used in bad faith [URS 1.2.6.3]

B. Respondent

On February 14, 2020, the Respondent responded to the official complaint notice via email that "Please note that we have removed gefran products from the shelves and we also purchased gefran products through a formal agent. "

The Respondent does not file an official response within the deadline.

C. Procedural findings

Having reviewed the communications records, the Examiner finds that MFSD has discharged its responsibility under the URS Procedure paragraphs 3 and 4 and URS Rules paragraph 4

Language of the Determination: The Complaint was filed in English and Respondent's email response was also in English. Having considered the circumstances, the Examiner decides that the language of the Determination be English.

D. Findings of Fact

The Registration Date of the Disputed Domain Name is 2019-10-18.

Despite the Respondent has defaulted, the Examiner is still required to review the case on the merits of the claim. [URS 6.3]

E. Reasoning

1. The domain name(s) is(are) identical or confusingly similar to a word mark

To satisfy URS 1.2.6.1, a Complainant needs to prove its rights in a word mark and the domain name(s) is/are identical or confusingly similar to the word mark.

In the present case, the Examiner satisfies that the Complainant is a well-known automation devices manufacturer who also owns trademark registrations for GEFRAN in different jurisdictions.

The Complainant claims that the Disputed Domain Name is identical or confusingly similar to the GEFRAN trademark. The Examiner accepts that the prominent part of the Disputed Domain Name is identical to the GEFRAN trademark. In addition, the Examiner also finds that the ".store" generic top-level domain ("gTLD") does not reduce the likelihood of confusion.

For the foregoing reasons, the Panel finds the Complainant has satisfied URS 1.2.6.1.

2. Respondent has no rights or legitimate interests to the domain name(s)

To satisfy URS 1.2.6.2, the Complainant must first make a prima facie case that the Respondent lacks rights and legitimate interests in the domain name(s), and the burden of prove then shifts to the Respondent to show it does have rights or legitimate interests.

The Complainant asserts that the Respondent has not been authorized by the Complainant to use the trademark GEFRAN in the Disputed Domain Name or in any other manner. The Complainant is not in possession of, nor aware of the existence of, any evidence demonstrating that the Respondent might be commonly known by the Domain Name or a name corresponding to the disputed Domain Name as an individual, business, or other organization.

The Examiner finds that the Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in the Disputed Domain Name and the Respondent has not rebutted the assertion but removed all the Gefran branded products from the website resolved by the Disputed Domain Name.

For the foregoing reasons, the Panel finds the Complainant has satisfied URS 1.2.6.2.

3. The domain name(s) was(were) registered and is(are) being used in bad faith

To satisfy URS 1.2.6.3, the Complainant must prove both the registration and use of the domain name are in bad faith.

The Complainant claims that the Respondent has demonstrated actual knowledge of the GEFRAN trademark by reproducing the trademark on the website and capitalizes on the reputation of the GEFRAN trademark by selling replicas of Complainant's products and diverting Internet users seeking products under the GEFRAN mark to its own commercial website.

Having reviewed the screenshots of the website on the Disputed Domain Name, the Examiner agrees that the Respondent did have actual knowledge of the GEFRAN trademark demonstrating the bad faith registration, and disrupts Complainant's business and attempted to commercially benefit off the GEFRAN trademark in bad faith.

For the foregoing reasons, the Panel finds the Complainant has satisfied URS 1.2.6.3.

4. Abusive Complaint

The Examiner finds that the Complaint was neither abusive nor contained material falsehoods.

VIII. DETERMINATION

A. Demonstration of URS elements

After reviewing the entire record of the URS proceeding and the Parties submissions, the Examiner shall determine if the Complainant has or has not demonstrated all three elements of the URS by a standard of clear and convincing

evidence
Demonstration of URS elements **Demonstrated**

B. Complaint and remedy

The Examiner shall decide whether to accept or reject the Complaint and, therefore, order the domain name(s) be suspended for the balance of the registration period or be unlocked and returned to the full control of the Registrant

Complaint **Accepts**
Domain Name(s) **Suspends for the balance of the registration period**

C. Abuse of proceeding

The Examiner may find that a Complaint is abusive or contains deliberate material falsehood

Finding of abuse of proceedings **Not finds**
Ban from utilization of URS

D. Suspension or Termination

If legal proceedings were initiated by a Party or the Parties prior to or during the URS proceeding, the Examiner may order the suspension or termination of the URS dispute or decide to proceed to the Determination

URS proceeding **Proceeds to the Determination**

E. Publication

Publication **Publish the Determination**

SIGNATURE

Name **Paddy**
Surname **Tam**