

URS DEFAULT DETERMINATION

Shimano, Inc. v.
Claim Number: FA2111001973600

DOMAIN NAME

<shimano-clearance.store>

PARTIES

Complainant: Shimano, Inc. of Osaka, Japan
Complainant Representative: Jeffer Mangels Butler & Mitchell LLP Jessica B Sparkman of Los Angeles, CA, United States of America

Respondent: Super Privacy Service LTD c/o Dynadot of San Mateo, CA, US

REGISTRIES and REGISTRARS

Registries: DotStore Inc.
Registrars: Dynadot LLC

EXAMINER

The undersigned certifies that he or she has acted independently and impartially and to the best of his or her knowledge has no known conflict in serving as Examiner in this proceeding.
Dawn Osborne, as Examiner

PROCEDURAL HISTORY

Complainant Submitted: November 16, 2021
Commencement: November 17, 2021
Default Date: December 2, 2021
Having reviewed the communications records, the Examiner finds that the FORUM has discharged its responsibility under URS Procedure Paragraphs 3 and 4 and Rule 4 of the Rules for the Uniform Rapid Suspension System (the "Rules").

RELIEF SOUGHT

Complainant requests that the domain name be suspended for the life of the registration.

STANDARD OF REVIEW

Clear and convincing evidence.

FINDINGS and DISCUSSION

Findings of Fact: The Complainant is the owner of the mark SHIMANO, registered, inter alia, in the USA for fishing rods with first use recorded as 1972. The Domain Name has been connected to a site purporting to be an official site of the Complainant using the Complainant's name and logo as a masthead to offer competing products.

Even though the Respondent has defaulted, URS Procedure 1.2.6, requires Complainant to make a *prima facie* case, proven by clear and convincing evidence, for each of the following three elements to obtain an order that a domain name should be suspended.

[URS 1.2.6.1] The registered domain name(s) is/are identical or confusingly similar to a word mark:
(i) for which the Complainant holds a valid national or regional registration and that is in current use; or
(ii) that has been validated through court proceedings; or
(iii) that is specifically protected by a statute or treaty in effect at the time the URS complaint is filed.

Determined: Finding for Complainant

The Domain Name is confusingly similar to the Complainant's mark adding only a hyphen, the generic word "clearance" and the gTLD .com which does not prevent said confusing similarity,

[URS 1.2.6.2] Registrant has no legitimate right or interest to the domain name.

Determined: Finding for Complainant

The Respondent is not commonly known by the Domain Name or authorised by the Complainant. The Domain Name has been used for a site purporting to be an official site of the Complainant which is not a bona fide offering of goods or services or a legitimate non commercial or fair use,

[URS 1.2.6.3] The domain name(s) was/were registered and is being used in bad faith.
a. Registrant has registered or acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; or
b. Registrant has registered the domain name in order to prevent the trademark holder or service mark from reflecting the mark in a corresponding domain name, provided that Registrant has engaged in a pattern of such conduct; or
c. Registrant registered the domain name primarily for the purpose of disrupting the business of a competitor; or
d. By using the domain name Registrant has intentionally attempted to attract for commercial gain, Internet users to Registrant's web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of Registrant's web site or location or of a product or service on that web site or location.

Determined: Finding for Complainant

The use to purport to be an official site of the Complainant is an intentional attempt to attract for commercial gain Internet users to the Respondent's site by creating a likelihood of confusion as to the source or affiliation of the Respondent's site and the services and products offered thereon likely to disrupt the business of the Complainant.

FINDING OF ABUSE or MATERIAL FALSEHOOD

The Examiner may find that the Complaint was brought in an abuse of this proceeding or that it contained material falsehoods.

The Examiner finds as follows:

1. The Complaint was neither abusive nor contained material falsehoods.

DETERMINATION

After reviewing the parties submissions, the Examiner determines that the Complainant has demonstrated all three elements of the URS by a standard of clear and convincing evidence; the Examiner hereby Orders the following domain name(s) be SUSPENDED for the duration of the registration:

1. shimano-clearance.store