

URS Procedures:**12. Appeal**

12.1 Either party shall have a right to seek a de novo appeal of the Determination based on the existing record within the URS proceeding for a reasonable fee to cover the costs of the appeal. An appellant must identify the specific grounds on which the party is appealing, including why the appellant claims the Examiner's Determination was incorrect.

12.2 The fees for an appeal shall be borne by the appellant. A limited right to introduce new admissible evidence that is material to the Determination will be allowed upon payment of an additional fee, provided the evidence clearly pre-dates the filing of the Complaint. The Appeal Panel, to be selected by the Provider, may request, in its sole discretion, further statements or documents from either of the Parties.

12.3 Filing an appeal shall not change the domain name's resolution. For example, if the domain name no longer resolves to the original nameservers because of a Determination in favor of the Complainant, the domain name shall continue to point to the informational page provided by the URS Provider. If the domain name resolves to the original nameservers because of a Determination in favor of the registrant, it shall continue to resolve during the appeal process.

12.4 An Appeal must be filed within fourteen (14) days after a Default or Final Determination is issued and any Response must be filed fourteen (14) days after an appeal is filed.

12.5 Notice of Appeal and findings by the Appeals Panel shall be sent by the URS Provider electronically to the Registrant, the Complainant, the Registrar, and the Registry Operator.

12.6 The Providers' rules and procedures for appeals, other than those stated above, shall apply.

15. Determinations and Publication

(e) The Examiner or Panel has the sole discretion to require the Appeal Determination to be published either instead of, or together with, the Default or Final Determination it has overruled or upheld.

19. Appeal

(a) The Provider is responsible for providing the entire record in the underlying proceeding to the Appeal Panel.

(b) Appellant shall have a limited right to introduce new admissible evidence that is material to the Determination subject to payment of an additional fee, provided the evidence clearly pre-dates the filing of the Complaint.

(c) Appellee shall not be charged any additional fee and shall have the right to file a Reply to the Appellant's additional statements within the time period identified in the Provider's Supplemental Rules.

(d) If the Respondent prevailed and the domain name is no longer under the Registry Operator's suspension or lock, the Provider shall notify the Registry Operator to re-lock the domain name subject to the outcome of the Appeals process, but the domain name shall continue to resolve per URS Procedure Paragraph 12.3.

(e) If any domain name that is the subject of an Appeal is expired at the time of the filing of the Appeal, the Provider shall reject the Appeal for want of a remedy, unless the Appeal is only filed under URS Procedure Paragraph 11.8.

(f) The remedies for an Appeal are limited to:

(i) Affirmation of the Final Determination and the Remedy ordered. If the domain name is suspended, it shall remain suspended. If the domain name is with the Registrant, the Registry Operator shall promptly unlock the domain name following receipt of the Appeal Determination.

(ii) Overruling of the Final Determination and the Remedy ordered. If the domain name is suspended, the Registry Operator shall unlock the name and return full control of the domain name registration to the Registrant. If the domain name is with the Registrant, the Registry Operator shall immediately follow the steps in URS Procedure Paragraph 10.2 to suspend the domain name.

(iii) Overruling an Examiner's finding that a Complaint was abusive or contained a deliberate material falsehood. The Appeal Panel may replace the Final Determination with one including changes that the Appeal Panel deems appropriate.

(g) The Providers' Supplemental Rules for URS Appeals, other than those stated above, shall apply.

Summary of Findings on the 14 Appeal Cases

- Out of 14 appeals, 7 were related to the .email gTLD
- In 6 of these 7 cases, the respondent was yoyo.email.
- Of the 6 yoyo.email appeals, only 1 saw the Respondent prevail on appeal (for the domain “stuartweitzman.email” – the losing complainant subsequently filed a UDRP proceeding and won on a preponderance of the evidence standard, with the result that the domain was ordered to be transferred).
- The only .email case not related to yoyo.email was for “grey.email” (here, the Respondent was i-content Ltd and prevailed on appeal; the appeal panel found that the Complainant had not satisfied the clear and convincing standard in relation to the requirements of legitimate interests and bad faith).

- In total, out of 14 appeal cases, the Complainant ultimately prevailed in 12 of them; there were only 2 where the Respondent prevailed (the “stuartweitzman.email” and the “grey.email” cases)

- Out of 14 appeal cases, 9 were heard by 3-member appeal panels.

- The following numbers show the final disposition of all the domains that were in dispute (16 domains in 14 appeals) following the appeal: [1 in control of Respondent (the outcome of the “grey.email” case)]

	Case	Appeal
Provider	FORUM	FORUM
Case Number	1550933	1550933
Link	http://www.adrforum.com/domaindecisions/1550933F.htm	http://www.adrforum.com/domaindecisions/1550933A.htm
Domain(s)	aeropostale.uno	aeropostale.uno
Parties		
Complainant	Aeropostale Procurement Company	Aeropostale Procurement Company
Complainant Representative	Katten Muchin Rosenman LLP	Katten Muchin Rosenman LLP
Respondent(s)	Michael Kinsey	Michael Kinsey
Respondent Representative	NA	NA
Registries & Registrars		
Registry	UNO Registry	UNO Registry
Registrar	GoDaddy.com, LLC	GoDaddy.com, LLC
Examiner	Alan L. Limbury as Examiner	Piotr Nowaczyk as Examiner
Procedural History		
Complainant Submitted	26-Mar-14	26-Mar-14
Commencement	27-Mar-14	27-Mar-14
Response	9-Apr-14	9-Apr-14
Relief Sought	Complainant requests that the domain name be suspended for the life of the registration.	Complainant requests that the domain name be suspended for the life of the registration.
Standard of Review	Clear and convincing evidence.	Clear and convincing evidence.
Findings & Discussion		
Identical or Confusingly Similar	Accordingly there is no evidence before the Examiner that the Complainant holds a valid national or regional registration for a mark to which the domain name is identical or confusingly similar.	The Domain Name, <aeropostale.uno> is identical to Complainant's trademarks since it includes the exact wording of the registered trademarks. The Examiner finds that the Complainant met the standard sets out in 1.2.6.1. of the URS Procedure since it proved that it holds a valid national trademark registration. Further, the Complainant confirmed that the registered trademarks are in current use by presenting pictures of its goods produced under the AEROPOSTALE marks as well as screenshots of its website <aeropostal.com>.
No rights or Legitimate Interests	Not listed	The Respondent admitted that he is not connected with the Complainant who owns the "AEROPOSTALE" marks. Furthermore, it may be clearly inferred from material provided by the Parties that the Respondent was not authorized to use the marks. Therefore, the Examiner finds that the Respondent has established no rights or legitimate interests in the Domain Name (1.2.6.2. of the UDR Procedure).
Bad Faith Registration and Use	Not listed	The rule stemming from URS 1.2.6.3 (d) is satisfied since the Respondent admitted that he has registered the domain to take "an opportunity similar to when .com first came into existence" so purely for a reason of expected gain resulting from using the "AEROPOSTALE" mark. It is important that the Respondent could have easily known of the Complainant's trademarks when registering <aeropostale.uno>. The "AEROPOSTALE" marks were registered and used for many years before the domain name was created. Additionally, the Respondent has admitted that he registered more domain names with ".uno" gTld that infringe someone's else rights. This also confirms bad faith of the Respondent. Finally, the fact that the Respondent was unaware of consequences of his conduct does not exculpate him. In the light of above, the Respondent's declaration about cancelling the domain was not taken into consideration because there were no evidences of such presented.
Determination	After reviewing the parties' submissions, the Examiner determines that the Complainant has NOT demonstrated all three elements of the URS by a standard of clear and convincing evidence; the Examiner dismisses the complaint without prejudice to the Complainant proceeding with an action in court of competent jurisdiction or under the UDRP and hereby Orders the following domain name be RETURNED to the control of Respondent: <aeropostale.uno>.	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 names be SUSPENDED for the duration of the registration: <aeropostale.uno>
Determination Date	10-Apr-14	28-Apr-14
Dissenting view:	NA	None
Who filed the appeal?	NA	Complainant
Who prevailed?	Respondant	Complainant
How long did it take?	15 Days from submission	18 Days from original date of decision
Final disposition of the domain:	Name appears to have resolved up until the appeals outcome once the Registry was notified.	On or around 13 May 2014, the NS Records were changed to ADRFORUM.COM; On or around 15 May 2015, the domain was renewed; On or around 5 May 2016, the domain was renewed; On or around 22 March 2017 the domain went into Redemption Period; the domain now appears to be reserved by the Registry.
Were the URS Rules and Procedures followed?		
Other comments:		

Case		Appeal
Provider	FORUM	FORUM
Case Number	1552833	1552833
Link	http://www.adforum.com/domaindecisions/1552833F.htm	http://www.adforum.com/domaindecisions/1552833A.htm
Domain(s)	lufthansa.email	lufthansa.email
Parties		
Complainant	Deutsche Lufthansa AG	Deutsche Lufthansa AG
Complainant Representative	Rauschhofer Rechtsanwälte	Rauschhofer Rechtsanwälte
Respondent(s)	yoyo.email of Watford / yoyo.email of Dunsatable, International	yoyo.email of Watford / yoyo.email of Dunsatable, International
Respondant Representative	Smith and Wells Solicitors	NA
Registries & Registrars		
Registry	EMAIL Registry	EMAIL Registry
Registrar	GoDaddy.com, LLC	GoDaddy.com, LLC
Examiner	Piotr Nowaczyk	Petter Rindforth, as Examiner (Chair) Alan L Limbury, as Examiner Jeffrey M. Samuels, as Examiner
Procedural History		
Complainant Submitted	4-Apr-14	11-May-14
Commencement	7-Apr-14	26-May-14
Response	28-Apr-17	Decision originally to be submitted on or before June 16, 2014, but – on request by the Examiners, was extended to June 18, 2014.
Relief Sought	Complainant requests that the domain name be suspended for the life of the registration.	Complainant requests that the domain name be suspended for the life of the registration. The Respondent requests that the Panel dismiss the complaint.
Standard of Review	Clear and convincing evidence.	Clear and convincing evidence.
Findings & Discussion		
Findings of Fact	<p>The Complainant owns a Community trademark consisting of "LUFTHANSA" which is registered under No. 001212539. in classes 6, 8, 9, 14, 16, 18, 20, 21, 24, 25, 26, 28, 36, 37, 41 and 42, in force until June 11, 2019.</p> <p>The Complainant contends that the Respondent's domain name, <lufthansa.email>, is identical or confusingly similar to the LUFTHANSA mark, and was registered and is being used in bad faith by the Respondent who has no rights or legitimate interests in the Domain Name.</p> <p>The Respondent admits that Lufthansa AG holds a valid national and regional registration for the trade mark "LUFTHANSA" and that the Domain Name contains the word "LUFTHANSA". The Respondent denies that the intended use of the Domain Name will create any likelihood of confusion with the trade mark LUFTHANSA, as to any of the source, sponsorship, affiliation, or endorsement of the intended website at the Domain Name, or any product or service on the said website or location. The Respondent also states that it has made a "legitimate and fair use" of the Domain Name without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark LUFTHANSA. Namely, it intends to use the Domain Name, and a large number of other domain names which have been registered with the .email suffix for the same purpose and with similar surrounding circumstances, for a service to internet users of a recorded delivery service and/or email reply monitoring system each driven by a neutral communication platform.</p> <p>URS Procedure 1.2.6, requires the Complainant to prove, by clear and convincing evidence, each of the following three elements to obtain an order that a domain name should be suspended.</p>	<p>The Complainant is the owner of the trademark LUFTHANSA, registered in a number of countries/regions, such as: Community Trademark registration No. 001212539 LUFTHANSA (word), registered on February 2, 2001, and renewed until June 11, 2019, covering goods and services in Intl Classes 6, 8, 9, 14, 16, 18, 20, 21, 24, 25, 26, 28, 36, 37, 41 and 42.</p> <p>The Complainant has provided evidence of use by screenshots from the website www.lufthansa.com.</p> <p>The Complainant contends that the Respondent's domain name, <lufthansa.email>, is identical or confusingly similar to the LUFTHANSA mark, and was registered and is being used in bad faith by the Respondent who has no rights or legitimate interests in the Domain Name.</p> <p>The Respondent admits that Lufthansa AG holds a valid national and regional registration for the trade mark "LUFTHANSA" and that the domain name contains the word "LUFTHANSA" (sic). The Respondent denies that the intended use of the disputed domain name will create any likelihood of confusion with the trade mark LUFTHANSA, as to any of the source, sponsorship, affiliation, or endorsement of the intended website connected with <lufthansa.email>, or any product or service on the said website or location. The Respondent also states that it has made a "legitimate and fair use" of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark LUFTHANSA.</p> <p>The Respondent further explains that <lufthansa.email>, as well as a large number of other domain names registered under .email TLD, will be offered free of charge as a recorded delivery service and/or email reply monitoring system each driven by a neutral communication platform connected to the Respondent's YoYo email system.</p> <p>The Respondent states that it was important to start building up a directory of companies "who would value having access to the system so that as well as the system recording if an e-mail had been received" by, for example, the Complainant, "the company itself could use the system to have recorded that it had sent an email out that had arrived on the date and time in question".</p> <p>URS Procedure 1.2.6, requires the Complainant to prove, by clear and convincing evidence, each of the following three elements to obtain an order that a domain name should be suspended.</p>
Identical or Confusingly Similar	<p>The Domain Name, <lufthansa.email> is identical to the Complainant's LUFTHANSA mark since it includes the exact wording of the registered trademark. In addition, it is well accepted that the top level domain is irrelevant in assessing identity or confusing similarity, thus ".email" is of no consequence here (Facebook Inc. v. Radoslav, Claim Number: FA1308001515825). Moreover, the Respondent has clearly admitted that the Domain Name contains the word "LUFTHANSA". The Examiner finds that the Complainant met the standard sets out in 1.2.6.1. of the URS Procedure since it proved that it holds a valid regional trademark registration (Community Trademark Register No. 001212539). Further, the Complainant confirmed that the registered trademark is in current use by presenting printouts from various pages of the Complainant's website.</p>	<p>The Complainant met the standard sets out in 1.2.6.1. of the URS Procedure since the Complainant has proved its right to the valid Community Trademark registration No. 001212539 LUFTHANSA (word). Further, the Complainant has proved that the said trademark is in current use by presenting printouts from various pages of the Complainant's website.</p> <p>The relevant part of the disputed domain name is <lufthansa>, as the added top-level domain – being a required element of every domain name – is generally irrelevant when assessing whether or not a mark is identical or confusingly similar and in this case does nothing to distinguish the disputed domain name from the Complainant's trademark. The meaning of the connected top level domain will however be further discussed below in relation to 1.2.6.2 and 1.2.6.3 of the UDR.</p> <p>The Respondent has also clearly admitted that the Complainant holds a valid trademark registration for LUFTHANSA, and that the disputed domain name contains the word LUFTHANSA (with the addition of the suffix .email).</p> <p>The Examiners conclude that the disputed domain name is identical to the Complainant's trademark LUFTHANSA.</p>
No rights or Legitimate Interests	<p>The Respondent does not have any rights in the name "LUFTHANSA" nor is the Respondent commonly known by this name. The Complainant has not authorized Respondent's use of its mark and has no affiliation with the Respondent. Therefore, the Examiner finds that Respondent has established no rights or legitimate interests in the Domain Name (1.2.6.2. of the UDR Procedure).</p>	<p>The Respondent does not have any rights in <lufthansa.email>, as the Complainant has not authorized the Respondent to register a domain name containing its registered and used trademark LUFTHANSA, nor is the Respondent commonly known by <lufthansa.email>.</p> <p>The question remains whether the Complainant has shown that the Respondent has no legitimate interests in the disputed domain name. <lufthansa.email> clearly indicates that it relates to a specific e-mail service. The Respondent states, and the Examiners find no reason to question that, the disputed domain name is registered and will be used for a free of charge recorded delivery service, especially meant for the Complainant and customers of the Complainant. On this basis, such "free of charge" use may be considered as a more technical and non-commercial use of <lufthansa.email>, that may – under some circumstances – have been seen as legitimate interest.</p> <p>However, in the Statement of Giovanni Laporta, that the Respondent provides as evidence of Legitimate Interests as well as supporting good faith Registration and Use, the Respondent states that the business is serious, involving up to 10 employees and that "a lot of money" has been spent on the project so far, thereby contradicting that the use is non-commercial.</p> <p>Further, in the same Statement, the Respondent says that it was important to start building up a directory of large companies such as Lufthansa, as the intention is to "make money by the value of having large numbers of active users...", by charging for connected social media, as well as connected advertising.</p> <p>Whatever might be the Respondent's intent, the juxtaposition of the distinctive and well-known trademark LUFTHANSA with the descriptive gTLD .email is likely to convey to Internet users a false representation that the domain name belongs to or is approved by the Complainant.</p> <p>To register another's well-known trademark as a domain name and using that domain name connecting to a web service with the specific goal to earn money from active users and advertising connected to the use of the trademark related web service, cannot be considered as legitimate interest.</p> <p>Accordingly, the Examiners find that the Complainant has established that the Respondent has no rights or legitimate interests in the Domain Name.</p>
Bad Faith Registration and Use	<p>The Respondent has registered and use the Domain Name in bad faith – the Complaint satisfied URS 1.2.6.3 (d). The Respondent must have known of the Complainant's trademark when registering <lufthansa.email> which is famous all over the world as confirmed in Deutsche LUFTHANSA AG v. Gandiyork (SL - FA1403001549328 April 04, 2014). Moreover, the Respondent did not present demonstrable preparations to use the Domain Name in connection with a bona fide offering of goods or services. The Respondent only describes its intention which is found to be insufficient to prevail over circumstances demonstrated by the Complainant. In the Examiner's view the Respondent has intentionally attempted to attract for commercial gain Internet users to <lufthansa.email> web by creating a likelihood of confusion with the "LUFTHANSA" mark.</p>	<p>As stated above, the Respondent confirms that the Respondent had clear knowledge of the Complainant's prior and active trademark rights at the time the disputed domain name was registered.</p> <p>The Respondent further states that <lufthansa.email> is registered to be used as a recorded delivery service and/or email reply monitoring system for the Complainant as well as users that wish to come in contact with the Complainant.</p> <p>The only specific use that the Respondent has provided, is directly related to YoYo.email, with no other trademarks or descriptive words connected.</p> <p>On the contrary, the Respondent says that <lufthansa.email> will be offered for free, in order to get more users to the Respondents online service and thereby get money from "advertising" and "social media".</p> <p>As the Respondent has registered the disputed domain name with clear knowledge of the Complainant's prior trademark rights, with the specific goal to use the disputed domain name to get more users of the Respondents services and thereby earn money, this is clearly both bad faith registration and use.</p>
Determination	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 names be SUSPENDED for the duration of the registration: <lufthansa.email>	the Complainant has demonstrated all three elements of the URS by a standard of clear and convincing evidence; the Examiners hereby Orders the following domain name to be SUSPENDED for the duration of the registration: <lufthansa.email>
Determination Date	28-Apr-14	18-Jun-14
Dissenting view:		<p>Jeffrey M. Samuels, as Examiner (Dissenting)</p> <p>I respectfully dissent. As noted in URS Procedure §8.5, "[t]he URS is not intended for use in any proceedings with open questions of fact, but only clear cases of trademark abuse." In my opinion, the evidence does not establish a "clear case[]" of trademark abuse," especially when viewed in the context of the "clear and convincing" burden of proof.[1]</p> <p>I agree with my fellow examiners that the disputed domain name lufthansa.email is confusingly similar to Complainant's LUFTHANSA trademark. The domain name incorporates, in full, the trademark LUFTHANSA, which is the most distinctive feature of the domain name. I agree with Respondent, however, that, unlike .com cases, it is not improper to give some weight to the "email" aspect of the domain name.</p> <p>It appears that Respondent intends to use the disputed domain name in connection with an email directory and email hosting service. As I understand it, the service would provide evidence of the sending and receipt of emails. I assume lufthansa.email would be used to document the sending of emails to Lufthansa. Complainant seems to question the need for, and technical viability of, such a service, as well as Respondent's ability to offer such a service.</p> <p>In my opinion, Respondent has raised significant questions of fact to refute the claim of bad faith registration.[2] Complainant has failed to present clear and convincing evidence that the disputed domain name is not to be used in connection with a bona fide offering of goods and services for which Respondent has made demonstrable preparations and/or that Respondent's use qualifies as fair use.[3] The Statement of Giovanni Laporta (pp.6-7) seems to me to establish that Respondent has undertaken serious efforts to bring this service online. In this regard, I note that it was only in March of 2014 that the .email top-level domain became available.</p> <p>With respect to fair use, Respondent has made a convincing enough argument that it needs to use the disputed domain name, as well as many others, in order to offer a credible and useful service and does not possess the requisite intent to "misleadingly divert consumers." [4] How else can the service provide proof of the sending of emails to Lufthansa other than through the use of the term "lufthansa"? In this sense, Respondent appears to be using the term "lufthansa" merely to describe the intended recipient of an email. Whether Complainant supports such a service or believes it is technically or commercially viable seems to me to be beside the point.</p>
Who filed the appeal?	NA	Respondant
Who prevailed?	Complainant	Complainant
How long did it take?	24 days after submission	51 days after original decision
Final disposition of the domain:	Name appears to have resolved up until the appeals outcome once the Registry was notified.	At time of registration nameservers set to domaincontrol.com; On or around 30 April 2014, the nameservers were changed to lufthansa.email; on or around 11 July 2014, the nameservers were changed to adforum.com; on or around 27 Mar 2015 the name went into autorenewperiod; on or around 26 May 2016, the domain is secured under DPML.
Were the URS Rules and Procedures followed?		
Other comments:		

Case		Appeal
Provider	FORUM	FORUM
Case Number	1554143	1554143
Link	http://www.adrforum.com/domaindecisions/1554143F.htm	http://www.adrforum.com/domaindecisions/1554143A.htm
Domain(s)	wolfram.ceo	wolfram.ceo
Parties		
Complainant	Wolfram Group LLC	Appellee: Wolfram Group LLC
Complainant Representative	Wolfram Group LLC	Appellee Representative: Wolfram Group LLC Noah K Tilton
Respondent(s)	Andrew Davis & Every CEO of Port of Spain, International	Appellant: Every CEO Andrew Davis
Respondent Representative		
Registries & Registrars		
Registry	CEO Registry	CEO Registry
Registrar	101domain, Inc.	101domain, Inc.
Examiner	Jonathan Agmon, as Examiner	Richard W. Hill, as Examiner
Procedural History		
Complainant Submitted	15-Apr-14	1-May-14
Commencement	22-Apr-14	
Response	28-Apr-14	2-May-14
Relief Sought	Complainant requests that the domain name be suspended for the life of the registration.	Appellant requests a de novo review of the proceedings and that the previous Determination be overruled. Appellant requests that the previous finding that the Complaint was brought in an abuse of the proceeding or that it contained material falsehoods be set aside as an abuse of the Examiners discretion, or because the finding was arbitrary or capricious.
Standard of Review	Clear and convincing evidence.	De novo review as to if the Complainant met its burden by clear and convincing evidence. Abuse of discretion for findings of abuse or material falsehood.
Findings & Discussion		
Findings of Fact		Discussion: URS Procedure 1.2.6, requires Complainant to prove, by clear and convincing evidence, each of the following three elements to obtain an order that a domain name should be suspended. The Appellant has identified specific grounds on which it believes the previous Determination was incorrect. As the URS Appeal Review is de novo, the Examiner makes the following de novo findings for each URS factor. [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.
Identical or Confusingly Similar	A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. Complainant demonstrates that it registered the WOLFRAM mark (e.g., Reg. No. 3,740,375 registered January 19, 2010) with the USPTO. Complainant next asserts that the <wolfram.ceo> domain name is identical to Complainant's WOLFRAM mark. Respondent's domain name incorporates Complainant's mark in its entirety, and only deviates with the addition of the additional cc.TLD ".ceo". Therefore, the Panel finds that the <wolfram.ceo> domain name is identical to the WOLFRAM mark pursuant to URS Procedure 1.2.6.1.	Determined: Finding for Complainant The Complainant has a valid trademark for the term WOLFRAM, and this mark is well known in the ICT industry and among Internet users. [URS 1.2.6.2] Registrant has no legitimate right or interest to the domain name.
No rights or Legitimate Interests	Under the Policy ¶ 4(a)(i) it is up to the Complainant to make a prima facie case that Respondent lacks rights and legitimate interests in the disputed domain name, and only then the burden shifts to Respondent to show it does have rights or legitimate interests. See Hanna-Barbera Prods., Inc. v. Entm't Commentaries, FA 741828 (Nat. Arb. Forum Aug. 18, 2006) (holding that the complainant must first make a prima facie case that the respondent lacks rights and legitimate interests in the disputed domain name under UDRP ¶ 4(a)(ii) before the burden shifts to the respondent to show that it does have rights or legitimate interests in a domain name); see also AOL LLC v. Gerberg, FA 780200 (Nat. Arb. Forum Sept. 25, 2006) ("Complainant must first make a prima facie showing that Respondent does not have rights or legitimate interest in the subject domain names, which burden is light. If Complainant satisfies its burden, then the burden shifts to Respondent to show that it does have rights or legitimate interests in the subject domain names."); Complainant argues that Respondent has no rights or legitimate interests in respect of the <wolfram.ceo> domain name. Respondent's name is Davis and he lacks of any affiliation with a company whose name includes "WOLFRAM". To respond this allegation the Respondent argues that he does have a legitimate interest in the domain name wolfram.ceo, since his future website will contain a large directory of CEOs, Business Owners and leaders named Wolfram. The Panel was not persuaded by the arguments made by the Respondent and finds that the Respondent failed to show that it has rights or legitimate interest in the disputed domain name. The Panel finds that the Respondent's arguments does not demonstrate any kind of legitimate interest to use a trademark that belongs to a third party and which the Respondent was aware of, since the Respondents clearly knows the Complainant and its trademarks since the Respondent stated in its reply that he had removed all possibilities of its websites creating confusion with a Trademarked name, before this (Wolfram) case was submitted and after the decision in the URS case URS Case #1550814 ("ArcelorMittal vs Andrew Davis"). Therefore, the Panel finds that the Complaint meets URS requirement of 1.2.6.2.	Determined: Finding for Complainant As the first examiner correctly noted, the Respondent's name is not Wolfram and he does not claim to be directly associated with any person called Wolfram. The Respondent states that he registered many first names, with the intent or creating a future website containing a large directory of CEOs, Business Owners and leaders named Wolfram. But the first name in question is a well-known mark. Thus, this Examiner agrees with the previous examiner: he is not persuaded by the arguments made by the Respondent and finds that the Respondent does not have rights or legitimate interest in the disputed domain name
Bad Faith Registration and Use	The Complainant must show that the Respondent registered and is using the disputed domain name in bad faith (Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may prove bad faith under paragraph 4(a)(iii) of the Policy. Complainant argues that Respondent registered and is using the <wolfram.ceo> domain name in bad faith. Complainant contends that the fact that the Respondents owns a "collection" of top premium .CEO domains is an indication to the Respondent bad faith. The Panel agrees with the Complainant's arguments. The Panel considers that holding such a large portfolio of domain names is an indicia of bad faith, particularly considering that, as seen in this case, an identical trademark owned by a third party is involved (See URS Case #1550814 ("ArcelorMittal vs Andrew Davis"). The Complainant asserts that its brand is known internationally. Complainant notes that the mark has been used over 25 years, and the top results of multiple search engine for "Wolfram.ceo" leads directly to the Complainant. Although panels have not generally regarded constructive notice to be sufficient for a finding of bad faith, the Panel finds that Respondent had actual knowledge of Complainant's mark and rights and therefore determine that Respondent registered the disputed domain name in bad faith under Policy ¶ 4(a)(iii). See Nat'l Patent Servs. Inc. v. Bean, FA 1071869 (Nat. Arb. Forum Nov. 1, 2007) ("[C]onstructive notice does not support a finding of bad faith registration."); see also Minicards Vennootschap Onder Firma Amsterdam v. Moscow Studios, FA 1031703 (Nat. Arb. Forum Sept. 5, 2007) (holding that respondent registered a domain name in bad faith under Policy ¶ 4(a)(iii) after concluding that respondent "actual knowledge of Complainant's mark when registering the disputed domain name"). Accordingly, having regard to the circumstances of this particular case, the Panel finds that the Complainant has met its burden under paragraph 4(a)(iii) of the Policy and the URS requirement of 1.2.6.3..	Determined: Finding for Complainant The Appellant states: "The examiner misrepresented my statement: 'removed possibilities of confusion with Trademark'. My statement simply meant: IN CASE any of my other .CEO Domains are similar to an existing Trademark, I removed the possibility of that Domain creating confusion. In NO way my statement suggests I was aware of the Wolfram Trademark. I was NOT aware of the Wolfram Company or its Trademark before this case. I got the Wolfram+Mittal names from a list of common names. My .CEO Domains were registered in Bulk/Internally by my Domain Registrar, using a List I gave them. I never Saw/Signed any Wolfram/Mittal Trademark claim. Appellant has not uploaded information in support of its contentions. (URS 12.2)" The Complainant's mark is well known, thus the Appellant either knew of it or should have known of it. As the first examiner stated, the Complainant notes that the mark has been used over 25 years, and the the results of multiple search engine for "Wolfram.ceo" leads directly to the Complainant. Further, this examiner agrees with the previous examiner to the effect that the Appellant's holding of a large portfolio of domain names is an indicia of bad faith, particularly considering that, as seen in this case, an identical trademark owned by a third party is involved. The Appellant does not address this argument, much less rebut it. Further, in his initial filing, the Appellant admits that some of his domain names are trademarks, and he admits that, at present, he is aware that Wolfram is a mark, because he has added a disclaimer to his web site to the effect that it is not related to the Complainant. The disclaimer is not sufficient to overcome the first impression confusion caused by the disputed domain name. The Appellant refers to URS Procedure 12.2. But this provision provides for a limited right to introduce new evidence, which neither party has done in this case. Contrary to what the Appellant implies, the Complainant did provide adequate information in support of its contentions in the Complaint.
Determination	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 names be SUSPENDED for the duration of the registration. <wolfram.ceo>	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: wolfram.ceo Availability of Determinations: The Appeal Examiner determines that the previous Determination shall remain available online along with this Appeal Determination.
Determination Date	30-Apr-14	6-May-14
Dissenting view:		
Who filed the appeal?	NA	Respondant
Who prevailed?	Complainant	Complainant
How long did it take?	15 days after submission	6 days after original decision
Final disposition of the domain:	Name appears to have resolved up until the appeals outcome once the Registry was notified.	On or about 15 May, the domains nameservers were changed to adrforum.com; On or about 8 May 2015, the domain looks to have been renewed; On or about 8 May 2016, the domain looks to have been renewed; On or about the domain changed to redemptiongraceperiod and then expired. The domain does not come back as registered in whois and looks to be available for registration at a Registrar.
Were the URS Rules and Procedures followed?		
Other comments:		

	Case	Appeal
Provider	FORUM	FORUM
Case Number	1554808	1554808
Link	http://www.adrforum.com/domaindecisions/1554808F.htm	http://www.adrforum.com/domaindecisions/1554808A.htm
Domain(s)	stuartweitzman.email	stuartweitzman.email
Parties		
Complainant	Stuart Weitzman IP, LLC	Stuart Weitzman IP, LLC
Complainant Representative	The Gioconda Law Group PLLC	The Gioconda Law Group PLLC
Respondent(s)	yoyo.email / yoyo.email of Dunsatable, International	yoyo.email / yoyo.email of Dunsatable, International
Respondant Representative		
Registries & Registrars		
Registry	EMAIL Registry	EMAIL Registry
Registrar	GoDaddy.com, LLC	GoDaddy.com, LLC
Examiner	James Bridgeman, as Examiner.	The Honorable Charles K. McCotter, Jr. (Ret.), as Examiner (Chair) Sandra Franklin, as Examiner Jeffrey M. Samuels, as Examiner
Procedural History		
Complainant Submitted	18-Apr-14	18-Apr-14
Commencement	18-Apr-14	18-Apr-14
Response	9-May-14	9-May-14
Relief Sought	Complainant requests that the domain name be suspended for the life of the registration.	Complainant requests that the domain name be suspended for the life of the registration.
Standard of Review	Clear and convincing evidence.	Clear and convincing evidence.
Findings & Discussion		
Findings of Fact		<p>Complainant is the owner of U.S. Trademark Registration Number: 3474821 for the mark STUART WEITZMAN, which was registered on July 29, 2008, and which is in current use. Complainant has provided evidence of use by a screenshot from the website www.stuartweitzman.com.</p> <p>Respondent contends that it has provided sufficient proof of demonstrable preparations to use the <stuartweitzman.email> domain name in connection with a bona fide offering of goods or services. See URS Procedure 5.7.1.</p> <p>Respondent plans to use the <stuartweitzman.email> domain name, and other domain names which have been registered with the ".email" suffix, to provide to Internet users a free "Email Recorded Delivery" service. Respondent contends that its new email recorded delivery service is a bona fide service and is fair use of the disputed domain name under URS Procedure 5.8.1.</p> <p>Respondent gives the following description of its recorded delivery service.</p> <p>Each ".email" domain is to be used as an email "delivery gateway," a door number for the delivery of mail. An ".email" account holder with YOYO can send recorded delivery emails to any other .email domain operated by YOYO. As both sender and receiver emails pass through the YOYO email server, YOYO can prove a recorded delivery. YOYO would receive those emails, add a delivery number and time stamp, and ensure that the recipient receives the emails. "The service is free for both sender and receiver."</p> <p>Respondent contends that the service is completely free and there is no intent to profit from the ".email" domain name. Respondent says that the service is not going to make use of any brand logo or claim any affiliation to any ".email" it operates. Therefore, Respondent contends the domain name registration is in good faith and is fair use.</p> <p>Respondent says that the domain name will never display any active "web offered content" and was registered for it email properties. Respondent says it does not require a website to provide the service. Respondent contends that the inactive website does not constitute bad faith.</p>
Identical or Confusingly Similar	Regarding URS Procedure 1.2.6.1. Complainant is the owner of the valid national US Trademark registration for the mark STUART WEITZMAN Registration Number: 3474821, registered on July 29, 2008 which is in current use. The disputed domain name is identical to Complainant's trademark.	The <stuartweitzman.email> domain name is identical or confusingly similar to Complainant's STUART WEITZMAN trademarks insofar as it incorporates the mark in its entirety.
No rights or Legitimate Interests	Regarding URS Procedure 1.2.6.2, Respondent has not furnished any evidence of nor does it make any claim to have any rights or legitimate interest in the STUART WEITZMAN trademark.	<p>Respondent says that its proposed email recorded delivery service will be free and that the <stuartweitzman.email> domain name is needed to operate the service. This raises a question as to whether the proposed use will be a legitimate fair use under URS Procedure 1.2.6.2. A majority of the Examiners conclude that Complainant has not met its "clear and convincing" burden of proof with respect to this element of the procedure. In sum, this is not a clear case of trademark abuse. URS Procedure 8.5.</p> <p>This case is factually distinguishable from the recent adverse appeal determination against Respondent in Deutsche Lufthansa AG v. yoyo.email et al., FA 1552833 (Nat. Arb. Forum June 18, 2014). In Lufthansa, there was evidence of Respondent's intent to use the free email service to receive money from advertising and social media. However, here, there is no record evidence of Respondent's intent to monetize the free email service.</p>
Bad Faith Registration and Use	<p>Regarding URS Procedure 1.2.6.3. Respondent explains its service as follows:</p> <p>"The idea is each .email domain (inc. the disputed domain) is to be used as an email "delivery gateway" a door number where we could deliver mail to. It was very simple. For example. First users will register a service username like examiner@yoyo.email. This opened the account. From here examiner can then start sending recorded delivery emails to any other .email domain operated by YOYO - this process is how we can guarantee a recorded delivery, as both sender and receiver emails pass through the YOYO email server. We know it's been sent at one end, and we also know it's been delivered at the other. It's a simple service, but can prove invaluable when proof of delivery is depended upon.</p> <p>Or put another way. Every YOYO.email domain was only ever going to be used to direct emails to who they should be directed to and not for any other person whatsoever - the sole purpose was to enable, for example, examiner.email clients, customers, suppliers to send emails to examiner.email and to be able to prove that they did indeed send those emails. Our email server then takes on the task of receiving those emails, adding a delivery number, time-stamping them so it can be proven when they were sent, and then ensuring that the examiner actually receives those emails. This advantage of course works in both directions. The examiner can also have proof of delivery when sending back any emails. The service is free for both sender and receiver. So there was never any "intent" to profit from the domain name."</p> <p>Respondent argues that the domain name will not be used to point to any website except its own. It provides a service to track and provide proof of delivery for emails, that it will use the disputed domain name for the purpose of email traffic only, that is was never going to make any use of any brand logo or claim any affiliation to the disputed or any .email domain name that it operates; simply because the service does not require it to operate successfully. There was never any intent to infringe anyone's trade mark, or claim we were affiliated to the trade mark in a way that would confuse the public.</p> <p>This Examiner finds that if the domain name was registered for use by Complainant Registrant has registered or acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain</p>	<p>A majority of the Examiners conclude that since a question exists as to legitimate fair use, a question likewise exists as to bad faith registration and use.</p>
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 names be SUSPENDED for the duration of the registration: <stuartweitzman.email>	After reviewing the parties' submission, a majority of the Examiners[1] determine that Complainant has NOT demonstrated all three elements of the URS by a standard of clear and convincing evidence; the Examiners hereby Order the following domain name be RETURNED to the control of Respondent: <stuartweitzman.email>
Determination Date	10-May-14	24-Jun-14
Dissenting view:		Examiner Samuels concurs in the determination on the grounds that Complainant has not established, through clear and convincing evidence, that Respondent has no rights or legitimate interests in the disputed domain name and that this is not a clear case of trademark abuse. See Deutsche Lufthansa AG v. yoyo.email et al., FA 1552833 (Nat. Arb. Forum June 18, 2014) (Examiner Samuels, dissenting).
Who filed the appeal?	NA	Respondant
Who prevailed?	Complainant	Respondant
How long did it take?	22 days after submission	45 days after original decision
Final disposition of the domain:	It appears the domain resolved up until the determination date.	On or about 10 May 2014, the nameservers were changed to urssuspension.zone; On or about 25 June 2014 the nameservers were assigned back to domaincontrol.com; On or about 25 November 2014, the Registrant is changed to STUART WEITZMAN IP, LLC c.o. Joseph M. Forgione, Esq.; On or about 16 September 2015 the Registrant is changed to Coach Inc. and does not resolve.
Were the URS Rules and Procedures followed?		
Other comments:	Note that the response is shown as 21 days after submission	Makes reference back to 1552833 in first .email case within the Rights and Legitimate Interest section.

Case		Appeal
Provider	FORUM	FORUM
Case Number	1563665	1563665
Link	http://www.adrforum.com/domaindecisions/1563665F.htm	http://www.adrforum.com/domaindecisions/1563665A.htm
Domain(s)	lockheed.email, lockheedmartin.email	lockheed.email, lockheedmartin.email
Parties		
Complainant	Lockheed Martin Corporation	Respondent: Lockheed Martin Corporation
Complainant Representative	McDermott Will & Emery LLP	Respondent Representative: McDermott Will & Emery LLP
Respondent(s)	yoyo.email / yoyo.email of Dunsatable, International	Appellant: yoyo.email of Dunsatable, International, GB.
Respondant Representative		
Registries & Registrars		
Registry	Spring Madison, LLC	Spring Madison, LLC
Registrar	GoDaddy.com, LLC	GoDaddy.com, LLC
Examiner	The Honorable Charles K. McCotter, Jr. (Ret.), as Examiner.	Jonathan Agmon, as Appeal Panelist (Chair). Douglas M. Isenberg, as Appeal Panelist. Terry Peppard, as Appeal Panelist.
Procedural History		
Complainant/Appeal Submitted	9-Jun-14	8-Jul-14
Commencement	10-Jun-14	
Response	24-Jun-14	14-Jul-14
Relief Sought	Complainant requests that the domain name be suspended for the life of the registration.	Complainant requests that the domain name be suspended for the life of the registration.
Standard of Review	Clear and convincing evidence.	Clear and convincing evidence.
Findings & Discussion		
Findings of Fact	<p>Complainant is the owner of U.S. Trademark Registration Number 2627156 for the mark LOCKHEED, which was registered on October 1, 2002, and which is in current use. Complainant is the owner of U.S. Trademark Registration Number 2762006 for the mark LOCKHEED MARTIN, which was registered on September 9, 2003, and which is in current use.</p> <p>Respondent contends that Complainant has not shown current use of the word marks. However, Complainant has provided two files with the extension ".smd" as evidence of current use. These are "signed mark data" files which contain encrypted data confirming that the word marks have been validated for proof of use.</p> <p>Respondent contends that, in determining whether the domain names are identical, the generic top level domain ".email" should be considered as part of the domain names. Respondent also contends that the domain names are not confusingly similar to Complainant's marks as the domain names will not be available to Internet users or to the public.</p> <p>Complainant contends that Respondent is neither affiliated with, nor has it been licensed or permitted to use Complainant's marks or any domains incorporating the marks. Complainant also contends that Respondent has not made any demonstrable preparations to use the disputed domain names.</p> <p>Respondent contends that it has made demonstrable preparations to use the domain names for a bona fide offering of goods and services. Respondent is developing a new email directory and courier service that will record the sending and receipt of emails. Respondent acquired a series of domain names under the ".email" new gTLD as soon as domain names under that TLD became available for purchase. Respondent says that it is one of the world's largest registrants of ".email."</p> <p>Respondent contends that its proposed use of the disputed domain names is a fair use, as it does not intend to use the domain names as trademarks, but as email addresses.</p> <p>Although Respondent's service will be free of charge, Respondent says that it intends to commercialize the The <lockheed.email> and <lockheedmartin.email> domain names are identical or confusingly similar to Complainant's LOCKHEED and LOCKHEED MARTIN word marks, respectively, insofar as they incorporate the marks in their entirety.</p>	Refer to link as content is too large for the cell.
Identical or Confusingly Similar	<p>Although Respondent has made demonstrable preparations to use the domain names, the use is not for a bona fide offering of goods and services as Respondent's commercial business uses Complainant's word marks.</p> <p>Respondent argues that its proposed email recorded delivery service is a fair use, since the service will be provided free. However, the undisputed record evidence shows Respondent's intent to monetize the free email service. See Deutsche Lufthansa AG v. yoyo.email et al., FA 1552833 (Nat. Arb. Forum June 18, 2014)(evidence of Respondent's intent to use the free email service to receive money from advertising and social media); but see Stuart Weitzman IP, LLC v. yoyo.email et al. FA 1554808 (Nat. Arb. Forum, URS Appeal Determination, June 24, 2014)(no record evidence of Respondent's intent to monetize the free email service).</p>	Refer to link as content is too large for the cell.
Bad Faith Registration and Use	<p>Respondent registered the the <lockheed.email> and <lockheedmartin.email> domain names in order to prevent Complainant from reflecting the marks in corresponding domain names. Respondent has engaged in a pattern of such registrations.</p> <p>Respondent has intentionally attempted to attract for commercial gain Internet users to the <lockheed.email> and <lockheedmartin.email> web sites by creating a likelihood of confusion with the LOCKHEED and LOCKHEEDMARTIN marks.</p>	Refer to link as content is too large for the cell.
Determination	<p>After reviewing the parties' submissions, the Examiner determines that Complainant has demonstrated all three elements of the URS by a standard of clear and convincing evidence; the Examiner hereby Orders the following domain names be SUSPENDED for the duration of the registration. <lockheed.email> <lockheedmartin.email></p> <p>The Examiner further finds the Complaint was not brought in an abuse of the administrative proceeding or with material falsehoods.</p>	<p>After reviewing the parties' submissions, the Panel determines that</p> <p>Respondent has demonstrated all three elements of the URS by a standard of clear and convincing evidence; the Panel hereby Orders the following domain names be SUSPENDED for the duration of the registration: <lockheed.email> and <lockheedmartin.email> The Panel further finds the Complaint was not brought in an abuse of the administrative proceeding or with material falsehoods.</p>
Determination Date	27-Jun-14	6-Aug-14
Dissenting view:		None
Who filed the appeal?	NA	Respondant
Who prevailed?	Complainant	Complainant
How long did it take?	18 days after submission	40 days after original decision
Final disposition of the domain:	Name appears to have resolved up until the appeals outcome once the Registry was notified.	lockheed.email: On or about 30 June 2014, the nameservers were changed to urssuspension.zone; On or about 11 July 2014 the nameservers were assigned to adrforum.com; On or about 23 August 2014, the domain is renewed.; On or about 25 April 2016 the domain is renewed; On or around 3 Jun 2016 the adrforum nameservers are removed and on redemptiongraceperiod; On 3 July 2016, domain moves to PendingDelete; On or around 9 July 2016, the Registrant is changed to CSC and nameservers changed to worldnic.com by which the domain was reregistered with a new CreateDate; On 18 Sept 2016, nameservers changed to lmco.com, but does not resolve. Quick review of lockheedmartin.email seems to have followed exact path.
Were the URS Rules and Procedures followed?		
Other comments:		

Case		Appeal
Provider	FORUM	FORUM
Case Number	1564796	1564796
Link	NA	http://www.adrforum.com/domaindecisions/1564796A.htm
Domain(s)	mwe.email	mwe.email
Parties		
Complainant		McDermott Will & Emery LLP
Complainant Representative		McDermott Will & Emery LLP
Respondent(s)		yoyo.email / yoyo.email of Dunsatble, International
Respondant Representative		
Registries & Registrars		
Registry		Spring Madison, LLC
Registrar		GoDaddy.com, LLC
Examiner		Honorable Carolyn Marks Johnson (Ret.), Examiner Honorable Charles K. McCotter, Jr. (Ret.) and Douglas M. Isenberg, Esq., Examiner Panel
Procedural History		
Complainant Submitted		16-Jun-14
Commencement		17-Jun-14
Response		30-Jun-17
Relief Sought		Complainant requests that the domain name be suspended for the life of the registration.
Standard of Review		Clear and convincing evidence.
Findings & Discussion		
Findings of Fact		After de novo review, the Panel finds by clear and convincing evidence that: Complainant owns the United States Trademark Registration Number 2,359,627 MWE (word), first used in commerce February 1934, registered on June 20, 2000, and renewed August 7, 2009, covering "legal services" in Intl Class 42. Complainant established use of the trademark for Complainant's e-mail system. URS Procedure 1.2.6 requires Complainant to prove, by clear and convincing evidence, each of the following three elements to obtain an order that a domain name should be suspended.
Identical or Confusingly Similar		Complainant satisfied the requirements of 1.2.6.1 of the URS Procedure; Complainant established rights in the valid trademark in current use based on U. S. Reg. No. 2,359,617 MWE (word). MWE is the relevant part of the domain name. An added top-level domain is required and does not distinguish a disputed domain name or prevent it from being identical to or confusingly similar to the alleged trademark of another. Respondent concedes Complainant's trademark Rights and that the domain name incorporates the mark in its entirety. See Response, pg. 5. The Panel finds by clear and convincing evidence that the disputed trademark is identical to Complainant's MWE trademark.
No rights or Legitimate Interests		Refer to link as content is too large for the cell.
Bad Faith Registration and Use		Complainant satisfied the requirements of URS 1.2.6.3. Complainant established by clear and convincing evidence that Respondent registered and used (or held for future use) the disputed domain name. Respondent knew of Complainant's protected rights in the MWE mark and registered it in a domain name in bad faith. Then Respondent used and/or held but made preparations to use the disputed domain name in the future in bad faith. Respondent concedes Complainant's trademark rights. Respondent's proof (Appendix 11) shows a web search in which Complainant's website is third from the top. The fifth from the top in that same web search, Wikipedia, which states: "MWE may refer to ... McDermott Will & Emery ...". Whether or not Complainant agrees or objects, Respondent intends to use the <mwe.email> site to benefit Respondent's yoyo website and other commercial ventures. Again, this Panel agrees with the findings of the underlying Examiner that Respondent registered the disputed domain name with "clear knowledge" of Complainant's "prior trademark rights," and "with the specific goal to use the disputed domain name to get more users of the Respondent's services and thereby earn money." Such use disrupts Complainant's rendition of legal services and other business ventures and creates confusion among Internet users as to Complainant's purported source, sponsorship, affiliation or endorsement of Respondent's web site. See Stuart Weitzman IP, LLC, v yoyo.email, et al FA1404001554808 (Nat. Arb. Forum May 10, 2014). The Panel finds that such conduct supports findings of bad faith registration and use and that Respondent registered and used and/or made plans to use the disputed domain name in bad faith.
Determination		After reviewing the parties' submissions, the Panel determines that Complainant demonstrated all three elements of the URS by a standard of clear and convincing evidence; and the Panel hereby Orders the following domain name be SUSPENDED for the duration of the registration.
Determination Date		<mwe.email> 10-Aug-14
Dissenting view:		
Who filed the appeal?	NA	Respondant
Who prevailed?		Complainant
How long did it take?		55 days from submission
Final disposition of the domain:	Name appears to have resolved up until the appeals outcome once the Registry was notified.	On or about 2 Jul 2014, the nameservers were changed to urssuspension.zone; On or around 11 Jul 2014 the nameservers were changed to adrforum.com; On or around 18 Aug 2014 the domain was renewed; On or around 11 Jun 2016 the domain entered AutorenewPeriod; On or about 26 Jul 2016 the domain was renewed at Registry; On or about 4 Sept 2016 the domain enters Pending Delete; On or about 10 Sept 2016 CSC is listed as new Registrant via IPMirror; On or about 12 Dec 2016 the domain was transferred to MWE under CSC Registrar where it does not resolve.
Were the URS Rules and Procedures followed?		
Other comments:	The Examiner chose not to publish the original case.	Makes reference back to prior cases of .email in URS and reference to an UDRP proceeding at WIPO

	Case	Appeal
Provider	FORUM	FORUM
Case Number	1565344	1565344
Link	http://www.adrforum.com/domaindecisions/1565344F.htm	http://www.adrforum.com/domaindecisions/1565344A.htm
Domain(s)	footlocker.email	footlocker.email
Parties		
Complainant	Foot Locker Retail, Inc.	Foot Locker Retail, Inc.
Complainant Representative	Kelley Drye & Warren LLP	Kelley Drye & Warren LLP
Respondent(s)	yoyo.email / yoyo.email of Dunsatble, International	yoyo.email / yoyo.email of Dunsatble, International
Respondant Representative		
Registries & Registrars		
Registry	Spring Madison, LLC	Spring Madison, LLC
Registrar	GoDaddy.com, LLC	GoDaddy.com, LLC
Examiner	Terry F. Peppard, as Examiner.	Jeffrey M. Samuels, Piotr Nowaczyk, Darryl C. Wilson (Chair), as Examiners.
Procedural History		
Complainant Submitted	18-Jun-14	18-Jun-14
Commencement	19-Jun-14	19-Jun-14
Response	3-Jul-14	3-Jul-14
Relief Sought	Complainant requests that the domain name be suspended for the life of the registration.	Complainant requests that the domain name be suspended for the life of the registration.
Standard of Review	Clear and convincing evidence.	Clear and convincing evidence.
Findings & Discussion		
Findings of Fact	<p>PRELIMINARY ISSUE: DEFICIENT RESPONSE</p> <p>The Response filed by Respondent fails to follow the format prescribed by the URS Procedure. It also greatly exceeds the word count permitted by URS Procedure ¶ 5.4. Whether taken singly or together, these deficiencies would justify rejection of the Re-sponse in its entirety and treatment of Respondent as in default. We will nonetheless accept the deficient Response for whatever value it may have.</p> <p>In its Complaint, Complainant shows that it holds a valid registration for the FOOT LOCKER trademark, Registry No. 1,126,857, registered November 20, 1979, in International Class 025 [athletic wear -- namely warm-up suits, jackets, t-shirts, sweatshirts, football jerseys and tennis outfits]; and for the FOOT LOCKER service mark, Registry No. 3,810,824, registered June 29, 2010, in International Class 035 [retail store and on-line retail store services featuring clothing, footwear, and clothing and footwear accessories], and that each of these marks is in current use. Respondent does not dispute any of this.</p> <p>Complainant also shows that Respondent registered the <footlocker.email> domain name on March 29, 2014, and, again, Respondent does not deny this.</p>	<p>Complainant Foot Locker Retail, Inc. ("Foot Locker") is a retailer of athletic footwear, apparel and related goods and services in the United States. Foot Locker owns all rights, title, and interest in and to the well-known and incontestable FOOT LOCKER marks (U.S. Reg. No. 3810824 and 1126857), registered in the United States Patent and Trademark Office ("USPTO") (the "Marks"). Complainant currently uses the Marks in commerce throughout the United States. Complainant's Marks and related goods and services are known throughout the world by virtue of the Marks' longstanding use and Complainant's extensive promotion and advertising.</p> <p>Respondent is yoyo.email of Dunsatble, International, GB and yoyo.email of Dunsatble, International, United Kingdom. Respondent is specifically represented by Giovanni Laporta who indicates he is the CEO filing on behalf of Yoyo.Email Ltd. The respondent states that he is an inventor and established honest businessman who devised a novel email system where the Respondent will act in the role of an email courier. He further asserts that the .email domain was required for a legitimate operational service and the aim of the company is to provide a recorded delivery system to internet users at times when a recorded delivery system is needed.</p>
Identical or Confusingly Similar	There is no dispute that the <footlocker.email> domain name is substantively identical to Complainant's FOOT LOCKER marks, or that Complainant holds a valid registration for each of the marks and that they are each in current use. Accordingly, we so find.	<p>Complainant's document indicate that it holds a valid registration for the FOOT LOCKER trademark, Registry No. 1,126,857, registered November 20, 1979, in International Class 025 [athletic wear -- namely warm-up suits, jackets, t-shirts, sweatshirts, football jerseys and tennis outfits]; and for the FOOT LOCKER service mark, Registry No. 3,810,824, registered June 29, 2010, in International Class 035 [retail store and on-line retail store services featuring clothing, footwear, and clothing and footwear accessories], and that each of these marks is in current use. Respondent does not dispute any of this. Complainant also shows that Respondent registered the <footlocker.email> domain name on March 29, 2014, and, again, Respondent does not deny this. There is no dispute that the <footlocker.email> domain name is substantively identical to Complainant's FOOT LOCKER marks, or that Complainant holds a valid registration for each of the marks and that they are each in current use. The Panel rejects Respondent's argument that the public cannot be confused by the Disputed Domain Name since it is allegedly used only as "internal system technology link".</p> <p>Complainant has proven this element.</p>
No rights or Legitimate Interests	Refer to link as content is too large for the cell.	<p>The respondent is not affiliated with the Complainant in any way. It has not been authorized by the Complainant to register or use any domain name incorporating the Marks and use of the Disputed Domain Name is likely to result in consumer confusion. Respondent has no rights or legitimate interest in the Disputed Domain Name because it is not a licensee of Complainant and is not otherwise authorized to use Complainant's Marks.</p> <p>Respondent argues that the domain name was registered as part of a system to use domain names to create a domain name directory and a method to record the sending and receipt of e-mails. Respondent alleges that e-mails processed through the system will not be readable by Respondent or anyone associated with the system, and that the essence of the system is that Respondent will function as an e-mail courier.</p> <p>Respondent's intent, it asserts, is to use company names within the system to document the transmission and receipt of e-mail traffic. To this end, Respondent has registered a large number of domain names, including that using Complainant's marks, in the format <[companyname/mark].email>.</p> <p>None of Respondent's assertions address the choice by Respondent to use Complainant's registered mark without authorization. In fact Respondent acknowledges that some companies may not want to be part of Respondent's system. According to the Response, where a company whose name or mark has been incorporated into a <.email> domain name does not want to send e-mails through the system, Respondent will nonetheless use the name as a "technical link" to send e-mails to that company and will independently record the transmission and provide a receipt to the sender showing that the message has been sent to the company. And where a company declines to participate in either the sending or receipt of e-mail traffic through the system, Respondent will use the domain name to record the receipt of e-mails addressed to the company by members of the public and then relay the messages to the company with an embedded link requesting confirmation of receipt.</p> <p>Respondent says that its transmission-receipt confirmation service is free to e-mail senders and recipients. It also says that: "Respondent is a business and like all businesses, needs to make a return on its investment." It says further that: "naturally there will be some commercialisation of the ... [resolving]... website but it will never be directly related to the domain name." Respondent's representations do not support a conclusion that Respondent 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,</p> <p>*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,</p> <p>*Registrant registered the domain name primarily for the purpose of disrupting the business of a competitor,</p> <p>*By using the domain name Registrant has intentionally attempted to attract for commercial gain, Internet users to Registrant's web site or other online 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.</p>
Bad Faith Registration and Use	Under the URS Procedure, essentially the same considerations that make it clear that Respondent has no rights to or legitimate interests in the contested domain name are also pertinent to an analysis of whether the domain name has been registered and is being used in bad faith. See URS Procedure ¶ 5.7. Accordingly, a finding of bad faith in the registration and use of the domain name follows directly from the above discussion of the absence of any rights or legitimate interests accruing to the benefit of Respondent from the facts presented in the Complaint and Response filed in this proceeding.	<p>Respondent registered the Disputed Domain name on March 29, 2014 and does not dispute receiving notification that the domain name matched a mark registered with the Trademark Clearinghouse. The Respondent was required to have clicked on the Registrar notice Acknowledgment Claim when presented with the Trademark Claims Notice to complete registration of the name. At the time of registration of the Disputed Domain Name, Respondent was apparently aware of Complainant's trademarks. The Disputed Domain Name has been registered and is being used in bad faith on the following grounds; ; By using the domain name Registrant has intentionally attempted to attract for commercial gain, Internet users to Registrant's web site or other online 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. Respondent admits that it hopes to intentionally attract users to its courier system and to profit from doing so. Although Respondent claims internet users will be unable or limited in their exposure to seeing Complainant's mark, the ability of Respondent to be successful will depend on users familiarity with Complainant's mark at some point in its system and thus will create a likelihood of confusion as to source, sponsorship, affiliation, or endorsement of Registrant's web site or location or of a product or service on that web site or location. Respondent cannot be insulated from proof regarding this.</p> <p>After reviewing the parties' submissions, the Examiners determine that</p>
Determination	We further find that Complainant has proven all three elements of the URS by clear and convincing evidence; and we therefore Order that the domain name <footlocker.email> be SUSPENDED for the duration of its registration.	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 names be SUSPENDED for the duration of the registration. <footlocker.email> Darryl C. Wilson, Examiner Piotr Nowaczyk, Examiner
Determination Date	8-Jul-14	19-Aug-14
Dissenting view:		Examiner Samuels respectfully dissents based on the views expressed in Deutsche Lufthansa AG v. yoyo.email. FA 1552833.
Who filed the appeal?	NA	Respondant
Who prevailed?	Complainant	Complainant
How long did it take?	20 days after submission	6 days after original decision
Final disposition of the domain:	Name appears to have resolved up until the appeals outcome once the Registry was notified.	On or about 8 July 2014 the nameservers changed to urssuspension.zone; On or about 11 July 2014 the nameservers changed to adrforum.com; On or about 29 March 2015 the domain enters AutoRenewGracePeriod; On or about 8 July 2015 the domain Whois responds as DPML
Were the URS Rules and Procedures followed?		
Other comments:		

Case		Appeal
Provider	FORUM	FORUM
Case Number	1571774	1571774
Link	http://www.adrforum.com/domaindecisions/1571774F.htm	http://www.adrforum.com/domaindecisions/1571774A.htm
Domain(s)	porsche.social	porsche.social
Parties		
Complainant	Dr. Ing. h.c. F. Porsche AG	Dr. Ing. h.c. F. Porsche AG
Complainant Representative	Lichtenstein, Körner and Partners	Lichtenstein, Körner and Partners
Respondent(s)	Interactiv Corporation	Interactiv Corporation
Respondent Representative		
Registries & Registrars		
Registry	United TLD Holdco Ltd.	United TLD Holdco Ltd.
Registrar	Name.com, Inc.	Name.com, Inc.
Examiner	Honorable Karl V. Fink (Ret.), as Examiner.	Petter Rindforth, as Examiner (Chair) Jeffrey M. Samuels, as Examiner Douglas M. Isenberg, as Examiner
Procedural History		
Complainant Submitted	26-Jul-14	27-Aug-14
Commencement	28-Jul-14	
Response	14-Aug-14	
Relief Sought	Complainant requests that the domain name be suspended for the life of the registration.	Complainant requests that the domain name be suspended for the life of the registration.
Standard of Review	Clear and convincing evidence.	Clear and convincing evidence.
Findings & Discussion		
Findings of Fact	<p>URS Procedure 1.2.6, requires Complainant to prove, by clear and convincing evidence, each of the following three elements to obtain an order that a domain name should be suspended.</p> <p>1.2.6.1. that the registered domain name is 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 .usURS complaint is filed.</p> <p>1.2.6.2. that the Registrant has no legitimate right or interest to the domain name</p> <p>1.2.6.3. that the domain was registered or is being used in bad faith.</p>	<p>The Complainant is the owner of the trademark PORSCHE, registered in a number of countries/regions, such as: U.S. Trademark registration No. 0618933 PORSCHE, registered on January 10, 1956 in respect of "automobiles and parts thereof"</p> <p>International Trademark Registration No 179928, registered on October 8, 1954 in respect of goods in Intl Classes 7, 8, 12</p> <p>International Trademark Registration No 562572 PORSCHE, registered on October 27, 1990 in respect of goods and services in Intl Classes 12 and 42</p> <p>Community Trademark Registration No 000073098 PORSCHE, registered on December 12, 2000 in respect of goods in Intl Class 12</p> <p>The Complainant has provided evidence of use by screenshots from the website www.porsche.com. The Complainant contends that the Respondent's domain name, <porsche.social>, is identical or confusingly similar to the PORSCHE mark, and was registered and is being used in bad faith by the Respondent who has no rights or legitimate interests in the Domain Name.</p> <p>The Respondent, an Internet Service Provider, deny all of Complainant's allegations.</p> <p>URS Procedure 1.2.6, requires Complainant to prove, by clear and convincing evidence, each of the following three elements to obtain an order that a domain name should be suspended.</p>
Identical or Confusingly Similar	NA	<p>The Complainant met the standard sets out in 1.2.6.1. of the URS Procedure since the Complainant has proved its right to the valid US Trademark Registration No. 618933 PORSCHE. Further, the Complainant has proved that the said trademark is in current use by presenting printouts of the Complainant's website.</p> <p>The relevant part of the disputed domain name is <porsche>, as the added top-level domain – being a required element of every domain name – is generally irrelevant when assessing whether or not a mark is identical or confusingly similar and in this case does nothing to distinguish the disputed domain name from the Complainant's trademark. The meaning of the connected top level domain will however be further discussed below in relation to 1.2.6.2 of the URS.</p> <p>The Examiners conclude that the disputed domain name is identical or confusingly similar to the Complainant's trademark PORSCHE.</p>
No rights or Legitimate Interests	NA	<p>The Respondent does not have any rights in <porsche.social>, as the Complainant has not authorized the Respondent to register a domain name containing its registered and used trademark PORSCHE, nor is the Respondent commonly known by <porsche.social>.</p> <p>The question remains whether the Complainant has shown that the Respondent has no legitimate interests in the disputed domain name.</p> <p><porsche.social> indicates that it relates to a social networking service. The Respondent informs that Respondent is an Internet Service provider, and has numerous products and services, such as "web design and development, hosting solutions, ecommerce, and more".</p> <p>The "ecommerce" part of the Respondent's business is in fact shown by Respondent's "parking web site" (printout provided by the Respondent), with links to other sites related to the Complainant's trademark and products, as well as clear "Sponsored Listings" selling goods not related to the Complainant's trademark and products.</p> <p>The Respondent denies to have actively created the site with the links and advertisements, and claims to have no commercial activities. However, as clearly stated in several UDRP cases, use of a domain name to post parking and landing pages or PPC links does not of itself confer rights or legitimate interests arising from a "bona fide offering of goods or services" or from "legitimate noncommercial or fair use" of the domain name, especially where resulting in a connection to goods or services competitive with those of the rights holder. By contrast, such use - as in this case - is a clear indication of unfair use resulting in misleading diversion. As a domain holder is always responsible for how the specific domain name is used, the Respondent cannot deny any responsibility of such use of <porsche.social>.</p> <p>Accordingly, the Examiners find that the Complainant has established that the Respondent has no rights or legitimate interests in <porsche.social>.</p>
Bad Faith Registration and Use	NA	<p>The Respondent informs that the intention of registering the disputed domain name was to use it for a "free community to Porsche car enthusiast". Accordingly, the Examiners conclude that the Respondent had clear knowledge of the Complainant's prior and active trademark rights at the time the disputed domain name was registered.</p> <p>As the Respondent has then used <porsche.social> for a commercial web site with advertisements and commercial links, some related to the goods and services of the Complainant, the Examiners also find that the Respondent is using <porsche.social> in bad faith.</p>
Determination	<p>After reviewing the parties' submissions, the Examiner determines that the Complainant has NOT demonstrated all three elements of the URS by a standard of clear and convincing evidence.</p> <p>Respondent states its intent is to create a free community to Porsche car enthusiasts and state a disclaimer on every webpage that Respondent is not affiliated to or authorized by the Complainant. The use of ".social" in the domain name, and the screenshot from Respondent's website are evidence of that intent.</p> <p>Complainant has not established by clear and convincing evidence that Registrant has no right or interest in the domain name and has not established that the domain was registered or is being used in bad faith.</p> <p>The Examiner hereby ORDERS the following domain names be RETURNED to the control of Respondent. <porsche.social></p>	<p>After reviewing the parties' submissions, the Examiners determine that the Complainant has demonstrated all three elements of the URS by a standard of clear and convincing evidence; the Examiners hereby Order the following domain name be SUSPENDED for the duration of the registration: <porsche.social></p>
Determination Date	18-Aug-14	10-Sep-14
Dissenting view:		
Who filed the appeal?	NA	Complainant
Who prevailed?	Respondant	Complainant
How long did it take?	23 days after submission	23 days after original decision
Final disposition of the domain:	Name appears to have resolved up until the appeals outcome once the Registry was notified.	On or about 12 Sep 2014 the nameservers were changed to adrforum.com; on or about 4 July 2015 the domain entered AutoRenewPeriod; On or about 18 Aug 2015 the domain looks to have been renewed; on or about 4 July 2016 the domain entered AutoRenewPeriod; On or about 18 Aug 2016 the domains looks to have been renewed; on or about 4 July 2017 the domain entered AutoRenewPeriod; On or about 18 Aug 2017 the domains looks to have been renewed; Still resolves to suspension page and the Respondant remains the Registrant.
Were the URS Rules and Procedures followed?		
Other comments:		

Case		Appeal
Provider	FORUM	FORUM
Case Number	1628473	1628473
Link	http://www.adrforum.com/domaindecisions/1628473F.htm	http://www.adrforum.com/domaindecisions/1628473A.htm
Domain(s)	eos.blackfriday	eos.blackfriday
Parties		
Complainant	Canon Kabushiki Kaisha	Canon Kabushiki Kaisha
Complainant Representative	William J Seiter	William J Seiter
Respondent(s)	North Sound Names	North Sound Names
Respondent Representative	John Berryhill	John Berryhill
Registries & Registrars		
Registry	Uniregistry, Corp.	Uniregistry, Corp.
Registrar	Uniregistrar Corp	Uniregistrar Corp
Examiner	Fernando Triana, as Examiner	The Hon Neil Anthony Brown QC, Mr Héctor Ariel Manoff and Mr Sebastian Matthew White Hughes (Presiding) as Examiners ("the Panel") constituting the Appeal Panel.
Procedural History		
Complainant Submitted	13-Jul-15	13-Jul-15
Commencement	13-Jul-15	13-Jul-15
Response	27-Jul-15	27-Jul-15
Relief Sought	Complainant requests that the domain name be suspended for the life of the registration.	Complainant requests that the domain name be suspended for the life of the registration.
Standard of Review	Clear and convincing evidence.	Clear and convincing evidence.
Findings & Discussion		
Findings of Fact		After de novo review, the Panel finds by clear and convincing evidence that: 1. Complainant owns the United States Trademark Registration Number 1,497,499 EOS (word), first used in commerce January 12, 1987, registered on July 26, 1988, covering "cameras and camera cases" in Intl Class 9; and 2. Complainant established use of the trademark in respect of Complainant's cameras and camera cases by declaration of use submitted with the Complaint. URS Procedure 1.2.6 requires Complainant to prove, by clear and convincing evidence, each of the following three elements to obtain an order that a domain name should be suspended.
Identical or Confusingly Similar	[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 Examiner considers that the reproduction of the trademark EOS, by the disputed domain name «eos.blackfriday», is sufficient ground to establish that the disputed domain name is confusingly similar to the trademark. Specially since the disputed domain name reproduces entirely Complainant's trademark without any other distinctive elements. Consequently, consumers will assume that the owner of the disputed domain name is the camera manufacturer. In consequence, as per this reasoning, the Examiner finds that, in the present case, the disputed domain name is confusingly similar to Complainant's trademark and thus, the requirement set forth in Paragraph 1.2.6.1., of the URS Procedure is duly complied with.	Complainant established rights in its valid trademark in current use based on United States Trademark Registration Number 1,497,499 EOS (word). Respondent concedes Complainant's trademark rights but contends Respondent does not use or offer the disputed domain name for the goods in respect of which Complainant's trademark has been registered and used. The Panel finds that Respondent's contentions regarding the use of the disputed domain name are not relevant to the determination of the first element under the URS. The Panel finds by clear and convincing evidence that the disputed domain name is identical to Complainant's EOS trademark. Accordingly, Complainant has satisfied the requirements of 1.2.6.1 of the URS Procedure.
No rights or Legitimate Interests	[URS 1.2.6.2] Registrant has no legitimate right or interest to the domain name. Determined: Finding for Complainant As per the URS requirements, Complainant's burden of proof has been met, regarding Registrant's lack of rights or legitimate interest in the disputed domain name, as Complainant has successfully shown evidence to substantiate its trademark rights, such as, several trademark registrations EOS in the United States of America, the United Kingdom, France, Germany, Italy, Spain, Canada, Australia, New Zealand, China, among others, to identify goods included in international class 9. Moreover, as established in Paragraph 8.3 of the URS Procedure, Complainant has demonstrated that the disputed domain name was registered and is being used in bad faith in violation of the URS. Consequently, the Examiner finds that, in the present case, Respondent has no legitimate right or interest to the disputed domain name, thus, the requirement set forth in Paragraph 1.2.6.2., of the URS Procedure is duly complied with.	Refer to link as content is too large for the cell.
Bad Faith Registration and 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 of a product or service on that web site or location. Determined: Finding for Complainant According to Subparagraph a) of the Paragraph 1.2.6.3., of the URS Procedure, registering a 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, is indicative of bad faith registration and use. Furthermore, in accordance with Paragraph 5.9.2, of the URS Procedure, a domain name redirecting to a website displaying pay-per-click links does not in and of itself constitute bad faith under the URS. Nonetheless, such conduct may be abusive, as in the current circumstances. Blackfriday is the day after Thanksgiving Day in the United States in which stores and manufacturers offer promotional sales. Hence, it is understood as an expression referring to promotions. Taking that into account, «eos.blackfriday» would attract consumers interested in EOS goods. Moreover, Complainant registered its trademark EOS with the Trademark Clearinghouse. Hence, Respondent was aware of the trademark EOS registered «eos.blackfriday». Thus, the Examiner concludes that Respondent registered the disputed domain name for the purpose of disrupting Complainant's business. Furthermore, Respondent's use of the disputed	Refer to link as content is too large for the cell.
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: eos.blackfriday	After reviewing the parties' submissions, the Panel determines that Complainant has demonstrated all three elements of the URS by a standard of clear and convincing evidence; the Panel hereby Orders the following domain names be SUSPENDED for the duration of the registration: <eos.blackfriday>
Determination Date	28-Jul-15	11-Sep-15
Dissenting view:		
Who filed the appeal?	NA	Respondent
Who prevailed?	Complainant	Complainant
How long did it take?	15 days after submission	45 days after original decision
Final disposition of the domain:	Name appears to have resolved up until the appeals outcome once the Registry was notified.	On or about 13 July 2015 the domain was renewed; On or about 29 July 2015 the nameservers were changed to adrforum.com; On or about 18 Sept 2016 the domain entered RenewalPeriod; It looks like the name was renewed 23 Sept 2016. It appears the domain was deleted, but there are no WhoWas records to see if it went into RenewPeriod. The domain is now available for registration.
Were the URS Rules and Procedures followed?		
Other comments:		Makes reference to the TLD as coupled with the SLD as a direct reference to its use. Also makes reference to the Mark existing in the TMCH, but not clear if a notice was presented at time of registration.

	Case	Appeal
Provider	FORUM	FORUM
Case Number	1637103	1637103
Link	http://www.adrforum.com/domaindecisions/1637103F.htm	http://www.adrforum.com/domaindecisions/1637103A.htm
Domain(s)	tagheuer.digital	tagheuer.digital
Parties		
Complainant	LVMH SWISS MANUFACTURES SA Marie Wormser	Complainant/Appellee is LVMH SWISS MANUFACTURES SA
Complainant Representative	DOMAINOO Virginie Poindron	DOMAINOO Virginie Poindron
Respondent(s)	GiftMobile P/L John R Stuckey	John Stuckey, GiftSMS
Respondent Representative		
Registries & Registrars		
Registry	Dash Park, LLC	Dash Park, LLC
Registrar	united-domains AG	united-domains AG
Examiner	Ho-Hyun Nahm, as Examiner	Jonathan Agmon, as Appeal Panelist (Chair). Ahmet Akguloglu, as Appeal Panelist. Petter Rindforth, as Appeal Panelist.
Procedural History		
Complainant Submitted	11-Sep-15	11-Sep-15
Commencement	11-Sep-15	11-Sep-15
Response	1-Oct-15	1-Oct-15
Relief Sought	Complainant requests that the domain name be suspended for the life of the registration.	Complainant requests that the domain name be suspended for the life of the registration.
Standard of Review	Clear and convincing evidence.	Clear and convincing evidence.
Findings & Discussion		
Findings of Fact	<p>URS Procedure 1.2.6, requires Complainant to prove, by clear and convincing evidence, each of the following three elements to obtain an order that a domain name should be suspended.</p> <p>[URS 1.2.6.1] The registered domain name(s) is/are identical or confusingly similar to a word mark:</p> <p>(i) for which the Complainant holds a valid national or regional registration and that is in current use; or</p> <p>(ii) that has been validated through court proceedings; or</p> <p>(iii) that is specifically protected by a statute or treaty in effect at the time the URS complaint is filed.</p>	<p>The facts in this case are not in dispute and there is no genuine issue of material fact. (URS 8.1.3).</p> <p>TAG Heuer, a branch of the Complainant, owns the international word trademark TAG HEUER n°689 200 duly registered since March, 24th, 1998 and also registered with the Trademark Clearing House.</p> <p>TAG Heuer is also the registrant of various domain names composed of the trademark TAG HEUER, such as tagheuer.com, tagheuer.fr, tagheuer.org or tagheuer.eu, which it uses for websites promoting its luxurious watch-making business all over the world.</p> <p>The disputed domain name does not result to an active website.</p> <p>The Respondent operates a business under the domain name <gift.digital> in Australia. The Respondent is offering mobile MMS digital gift card product which is delivered as a picture to the user's smart phone. The digital gift card can be adapted to the brand of the merchant.</p> <p>The Respondent intends to use the disputed domain name under its Gift Guru digital gifting and coupon marketplace to offer its digital gift card services. The Respondent intends to manage transactions for brand owners through the use of a nominated .digital domain name. The Respondent intends to make the digital gift card more credible by offering its products through a recognizable unimpeachable manner, i.e. the brand owner's trademark under the .digital gTLD.</p> <p>The Respondent registered the disputed domain name with knowledge of the Complainant's trademark.</p> <p>PRELIMINARY ARGUMENTS</p> <p>Appellant filed new evidence with the appeal submissions. Respondent requested the Panel to ignore such new evidence. Indeed, URS 12.2 provides that "[a] limited right to introduce new admissible evidence that is material to the Determination [to] be allowed upon payment of an additional fee, provided the evidence clearly pre-dates the filing of the Complaint."</p> <p>Appellant failed to provide evidence that clearly pre-dates the filing of the Complaint. URS proceedings were designed to be substantially limited in scope. See for example Rule 5.4. The URS Appeal process should also be limited in scope. Any new evidence must also be material to the determination in the case. Complainant did not argue why the additional evidence is material and under the circumstances of this specific case we deny the filing of new evidence and rely on the evidence filed within the URS Proceedings.</p>
Identical or Confusingly Similar	<p>Determined: Finding for Complainant</p> <p>Complainant prevailed on element (i) in that the Complainant holds a valid national or regional registration and that it is in current use. The record makes clear that "the Complainant holds a valid national or regional registration and that [it] is in current use," and the registration is identical to the second-level portion of the disputed domain name, as required by paragraph 1.2.6.1 of the URS. Examiner cannot find any relevant point to defend it in this regard in the Response. Accordingly, Complainant has satisfied the first element of the URS.</p>	<p>.....</p> <p>Refer to link as content is too large for the cell.</p> <p>Consequently, the Panel finds that the Complainant has satisfied URS 1.2.6.1 that the disputed domain name is identical or confusingly similar to the trademark in which the Complainant holds a valid a valid national registration and that is in current use.</p>
No rights or Legitimate Interests	<p>Determined: Finding for Complainant</p> <p>Respondent contends that as a well-established and a registered company in Australia which has been in operation since January 2013, it seeks to use the primary .digital to brand in the space, and to approach fraud and communication in a branded and secure sense. It intends to build its brand by selling retailers gift cards and delivering them as digital MMS messages, as well as offering retailers additional opportunity to push promotional MMS offerings. It continues to contend that it has the right to protect its own interests and take every possible step to create recognizable and secure communications platform and that it has the right to sell products and purchase products that are available for sale. However, Examiner observes that it will generally be very difficult for a respondent who is a reseller or distributor to establish rights or legitimate interests where that respondent has no relevant trade mark rights and without the authority of the complainant has used a domain name identical to the complainant's trademark (i.e., <trademark.tld>). A reseller or distributor can be making a bona fide offering of goods and services and thus have a legitimate interest in the domain name if its use meets certain requirements. These requirements normally include the actual offering of goods and services at issue, the use of the site to sell only the trademarked goods, and the site's accurately and prominently disclosing the registrant's relationship with the trademark holder. See paragraph 2.3, WIPO Overview 2.0. In the circumstances that Respondent has not used the disputed domain name and currently making no bona fide offering of goods and services but simply explains its plan to use the disputed domain name for fair use in terms of security sense, Examiner is not in a position to accept Respondent's allegations to recognize Respondent's rights or legitimate interests in the disputed domain name. Accordingly, Complainant has satisfied the second element of the URS.</p> <p>[URS 1.2.6.3] The domain name(s) was/were registered and is being used in bad faith.</p> <p>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</p> <p>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</p>	<p>.....</p> <p>Refer to link as content is too large for the cell.</p> <p>The Panel finds that Complaint satisfied URS 1.2.6.2 that the Respondent lacks rights and legitimate interests in the disputed domain name.</p>
Bad Faith Registration and Use	<p>Determined: Finding for Respondent</p> <p>Complainant contends that i) Complainant's mark is a renowned international trademark, and thus bad faith is admitted where Respondent was aware of the Complainant's mark at the time of registration, ii) Respondent is inactively holding the disputed domain name, and iii) offering a domain name for sale is evidence of bad faith. It also contends that Respondent has registered the disputed domain name in bad faith, primarily for the purpose of selling it for valuable consideration from the fact reflective of its passive holding of the disputed domain name. Respondent defends that it did not register the disputed domain name for the purpose of selling it. It asserts that it will never advertise a website using the disputed domain name and therefore could not be accused of using the registration to confuse the market. It believes the creation of secure architecture and communication vehicle will be of benefit to Complainant. Examiner finds that bad faith on the part of registrant is not always recognized simply because Complainant's mark is renowned. It may be inferred when taking other circumstances into consideration. Although Complainant is asserting that Respondent has registered the disputed domain name in bad faith primarily for the purpose of selling it for valuable consideration, Examiner cannot find any clear and convincing evidence supporting its allegations other than the fact of inactive use of the disputed domain name. Passive holding can be considered as an indication of bad faith. However, in case of the disputed domain name, it has been less than four (4) months since its registration on June 19, 2015. As such, the period of passive holding is too short to infer Respondent's bad faith especially in the circumstances that Respondent strongly denies Complainant's allegation by demonstrating its intent-to-fair use. Accordingly, Complainant has failed to satisfy the third element of the URS.</p>	<p>.....</p> <p>Refer to link as content is too large for the cell.</p> <p>The Panel finds that Complaint satisfied URS 1.2.6.3 that the disputed domain name was registered and is being used in bad faith.</p>
Determination	After reviewing the parties' submissions, the Examiner determines that the Complainant has NOT 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 returned to the control of Respondent: tagheuer.digital	After reviewing the parties' submissions, the Panel determines that The Complainant has demonstrated all three elements of the URS by a standard of clear and convincing evidence; the Panel hereby Orders the following domain name be SUSPENDED for the duration of the registration. <tagheuer.digital> The Panel further finds the Complaint was not brought in an abuse of the administrative proceeding or with material falsehoods.
Determination Date	7-Oct-15	24-Nov-15
Dissenting view:		
Who filed the appeal?	NA	Complainant
Who prevailed?	Respondent	Complainant
How long did it take?	26 days after submission	48 days after original decision
Final disposition of the domain:	Name appears to have resolved up until the appeals outcome once the Registry was notified.	On or about 23 Nov 2015 the nameservers were changed to adrforum.com; On or about 20 Jun 2016 the domain went into RedemptionPeriod; On or about 1 Aug 2016 the domain was registered with a new CreateDate by LVMH Swiss Manufactures SA and resolves to a site under construction page.
Were the URS Rules and Procedures followed?		
Other comments:		

Case		Appeal
Provider	FORUM	FORUM
Case Number	1672049	1672049
Link	http://www.adrforum.com/domaindecisions/1672049F.htm	http://www.adrforum.com/domaindecisions/1672049A.htm
Domain(s)	sanofi.xin	sanofi.xin
Parties		
Complainant	SANOFI	SANOFI
Complainant Representative	Marchais Associes Philippe MARTINI-BERTHON	Marchais Associes
Respondent(s)	威 苏 为 武 汉, China	威 苏 为 武 汉, China YinSi BaoHu Yi KaiQi (Hidden by Whois Privacy Protection Service) of Beijing, Beijing, International, CN. 苏威 of Beijing, Beijing, International, CN.
Respondent Representative	威 苏 为 武 汉, China	威 苏 为 武 汉, China
Registries & Registrars		
Registry	Elegant Leader Limited	Elegant Leader Limited
Registrar	Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn)	Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn)
Examiner	Mr. Sebastian Matthew White Hughes, as Examiner	Jonathan Agmon, as Appeal Panelist (Chair). Marie-Emmanuelle Haas, as Appeal Panelist Debrett Lyons, as Appeal Panelist
Procedural History		
Complainant Submitted	26-Apr-16	26-Apr-16
Commencement	26-Apr-16	26-Apr-16
Response	3-May-16	3-May-16
Relief Sought	Complainant requests that the domain name be suspended for the life of the registration.	Complainant requests that the domain name be suspended for the life of the registration.
Standard of Review	Clear and convincing evidence.	Clear and convincing evidence.
Findings & Discussion		
Findings of Fact	URS Procedure 1.2.6, requires Complainant to prove, by clear and convincing evidence, 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.	The Examiner's determination was that Complainant, by trying to rely on International Trademark Registration Number 1091805 for the mark SANOFI design, which was registered on August 18, 2011, did not satisfy the requirements of URS 1.2.6.1. Considering the above, the Examiner did not make any following determination on other elements requested by the URS Procedure and determined that Complainant has not demonstrated all three elements of the URS, then ordered that the disputed domain name be returned to the control of Respondent.
Identical or Confusingly Similar	Determined: Finding for Respondent Complainant relies on its international trademark registration No. 1091805 for the composite word and device mark SANOFI, with a registration date of August 18, 2011. URS 1.2.6.1 requires Complainant to establish that the registered domain name is identical or confusingly similar to a word mark for which Complainant holds a valid national or regional registration that is in current use. In seeking to rely on its registration for the word and device mark SANOFI, Complainant has not satisfied the requirements of 1.2.6.1. Refer to link as content is too large for the cell. Therefore, the Panel finds that the disputed domain name is confusingly similar to the SANOFI mark pursuant to URS Procedure 1.2.6.1.
No rights or Legitimate Interests	Determined: Finding for Respondent As Complainant has not satisfied the first limb of the URS Procedure, it is not necessary to make a determination under URS 1.2.6.2. Refer to link as content is too large for the cell. Therefore, the Panel finds that the Complaint meets URS requirement of 1.2.6.2.
Bad Faith Registration and Use	Determined: Finding for Respondent As Complainant has not satisfied the first limb of the URS Procedure, it is not necessary to make a determination under URS 1.2.6.3. Refer to link as content is too large for the cell. Considering the above, the Panel finds that the disputed domain name was registered and used in bad faith. Moreover, we agree that the Complainant has satisfied URS 1.2.6.3 (b) since the Respondent must have known of the Complainant's well-known mark when registering the disputed domain name.
Determination	After reviewing the parties' submissions, the Examiner determines that the Complainant has NOT 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 returned to the control of Respondent: sanofi.xin	After reviewing the parties' submissions, we determine that the Appellant has demonstrated all three elements of the URS by a standard of clear and convincing evidence; we hereby Order that the <sanofi.xin> domain name be SUSPENDED for the duration of the registration. We further find the Complaint or Appeal was not brought in an abuse of the administrative proceeding or with material falsehoods.
Determination Date	6-May-16	28-Jun-16
Dissenting view:		
Who filed the appeal?	NA	Complainant
Who prevailed?	Respondent	Complainant
How long did it take?	15 days after submission	53 days after original decision
Final disposition of the domain:	Name appears to have resolved up until the original decision outcome and once the Registry was notified.	On or about 6 May 2016 the nameservers were changed to adrforum.com; On or about 11 Nov 2016 the domain was renewed for two years which still resolves to the suspension page today.
Were the URS Rules and Procedures followed?		
Other comments:		

	Case	Appeal
Provider	FORUM	FORUM
Case Number	1673323	1673323
Link	http://www.adrforum.com/domaindecisions/1673323F.htm	http://www.adrforum.com/domaindecisions/1673323A.htm
Domain(s)	brandchannel.xyz, interbrand.club	brandchannel.xyz, interbrand.club
Parties		
Complainant	Interbrand Group	Interbrand Group
Complainant Representative	Lewis Silkin LLP	Lewis Silkin LLP Aaron B Newell
Respondent(s)	John Treagus / WhoisGuard, Inc. of Panama, International, PA.	John Treagus
Respondent Representative		
Registries & Registrars		
Registry	CLUB DOMAINS, LLC; XYZ.COM LLC	CLUB DOMAINS, LLC; XYZ.COM LLC
Registrar	NameCheap, Inc.	NameCheap, Inc.
Examiner	Honorable Karl V. Fink (Ret.), as Examiner.	Ho-Hyun Nahm, as Examiner
Procedural History		
Complainant Submitted	5-May-16	23-May-16
Commencement	6-May-16	
Response	19-May-16	2-Jun-16
Relief Sought	Complainant requests that the domain name be suspended for the life of the registration.	Appellant requests a de novo review of the proceedings and that the previous Determination be overruled. Appellant requests that the previous finding that the Complaint was brought in an abuse of the proceeding or that it contained material falsehoods be set aside as an abuse of the Examiners discretion, or because the finding was arbitrary or capricious.
Standard of Review	Clear and convincing evidence.	De novo review as to if the Complainant met its burden by clear and convincing evidence. Abuse of discretion for findings of abuse or material falsehood.
Findings & Discussion		
Findings of Fact	Complainant claims that Respondents are likely the same or related individuals or entities. Since this claim is not disputed, it is proper for this proceeding to include both domain names and both Respondents. URS Procedure 1.2.6, requires Complainant to prove, by clear and convincing evidence, each of the following three elements to obtain an order that a domain name should be suspended. 1.2.6.1. that the registered domain name is 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 .usURS complaint is filed. 1.2.6.2. that the Registrant has no legitimate right or interest to the domain name 1.2.6.3. that the domain was registered or is being used in bad faith.	1) Complainant contends that it is the owner of the trademarks INTERBRAND (in classes 35, 41) and BRANDCHANNEL (in classes 9, 35, 41) in over 90 countries and 48 countries respectively, including USA and EU. The same marks were registered at the Trade Mark Clearing House (TMCH). (2) Complainants INTERBRAND and BRANDCHANNEL trademarks are well known marks in light of the circumstances below: a) Complainant: i) was founded in 1974; ii) is the worlds leading brand consultancy, with a network of 29 offices across 22 countries; iii) enjoys clients such as Nike, Disney, Gillette, Honda, HewlettPackard, Red Bull, HäagenDazs and Redbull; iv) is part of Omnicom Group, the second-largest advertising holding company in the world with 74,000 staff and 2015 revenue of approximately USD \$15,134,400,000; v) publishes an influential annual Best Global Brands Report, identifying the worlds 100 most valuable brands, which has been cited as an authority in leading publications; vi) was the most awarded Agency in the 2016 Rebrand 100, global brand agency awards competition; and vii) publishes a website and daily newsletter called Brandchannel, which reports advertising and brand news from around the world. b) Complainants Brandchannel (founded in 2011): i) is a Webby-award winning newsfeed website about branding launched in 2001 and based in New York; ii) sends BRANDCHANNEL-branded newsletters to a list of almost 40,000 subscribers every working day, providing access to industry updates, news and branding resources; and iii) boasts over 300,000 visits each month at http://brandchannel.com/ . (3) Respondent registered the disputed domain names on March 11, 2016. (4) Both disputed domain names are resolved to websites which are being used for click-through advertising, including search terms such as Branding agency and Brand strategy, which redirect to sites associated with branding agencies other than Interbrand including: roi360.co.uk, vgroup.com, percolate.com; which also feature a buy this domain link and statement that the disputed domain name may be for sale by its owner. (5) Respondent contends: The prefix "inter" and word "brand" are commonly used in registrations. It would also have non-trademark uses such as Internet brand names which Respondent would be interested in. There is no evidence showing the disputed domain names target Complainant or its trademarks. Respondent was not aware of Complainants trademarks at the time of registration of the disputed domain names. Complainant did not have the courtesy to respond on acceptance or not to Respondents offer to transfer the disputed domain names to Complainant. This offer was not an admission of guilt and still stands if Complainant requires the domains. Respondent has not used the disputed domain names to gain any benefit from Complainants trademarks. There are no websites created for the disputed
Identical or Confusingly Similar		Determined: Finding for Complainant Complainant met the standard sets out in 1.2.6.1. of the URS Procedure since the Complainant has proved its right to the valid US and Community Trademark registrations for INTERBRAND and BRANDCHANNEL trademarks. In addition, Complainant has proved that the said trademarks are in current use by presenting various materials. The relevant parts of the disputed domain names are interbrand and brandchannel, as the added top-level domain being a required element of every domain name is generally irrelevant when assessing whether or not a mark is identical or confusingly similar and in this case does nothing to distinguish the disputed domain names from Complainants trademarks. Examiner concludes that each of the disputed domain names is identical to each of the Complainant's trademarks INTERBRAND and BRANDCHANNEL.
No rights or Legitimate Interests		Determined: Finding for Complainant Examiner finds that Respondent does not have any rights in the disputed domain names, as Complainant has not authorized Respondent to register a domain name containing its registered and used trademarks INTERBRAND and BRANDCHANNEL, nor is Respondent commonly known by the disputed domain names. Respondent argues that: i) the prefix "inter" and word "brand" are commonly used in registrations; ii) it would also have non-trademark uses such as Internet brand names which Respondent would be interested in; iii) Respondent is interested in Internet brand names; and iv) the disputed domain names in fact resolve out to perfumes. Whatever might be Respondents intent, the juxtaposition of the distinctive and well-known trademarks INTERBRAND and BRANDCHANNEL with the descriptive gTLD .club is likely to convey to Internet users a false representation that the disputed domain names belong to or are approved by Complainant. To register anothers well-known trademarks as domain names and using those domain names by resolving them to websites with the specific goal to introduce third parties brand cannot be considered as legitimate interest. Accordingly, Examiner finds that Complainant has established that Respondent has no rights or legitimate interests in the disputed domain names.
Bad Faith Registration and Use		Determined: Finding for Complainant Respondent contends that: i) there is no evidence showing the disputed domain names target Complainant or its trademarks; ii) Respondent was not aware of Complainants trademarks at the time of registration of the disputed domain names; iii) Respondent has not used the disputed domain names to gain any benefit from Complainants trademarks; iv) there are no websites created for the disputed domain names; v) the disputed domain names in fact resolve out to perfumes, however the Whoisguard was not removed, and thus sales would not be possible without contact details; vi) the disputed domain names were registered by standard registration and not in a way to receive any benefit; and v) the disputed domain names have been registered in good faith. However, Examiner finds that it is inconceivable that Respondent was not aware of Complainants trademarks especially because Respondent registered the disputed domain names which are identical to Complainants two well known trademarks on the same date. Respondent has admitted that the disputed domain names in fact resolve out to perfumes while arguing that sales would not be possible without contact details. Complainant has presented screen shots of the websites resolved by the disputed domain names featuring advertising, including search terms such as Branding agency and Brand strategy, which redirect to sites associated with branding agencies other than Interbrand including: roi360.co.uk, vgroup.com, percolate.com; also featuring a buy this domain link and statement that the disputed domain name may be for sale by its owner. Although Respondent contends that it has not gained any benefit from the websites using the disputed domain names, Examiner is of the view that the bad faith use is irrelevant to actual gain of benefit, and that the use mechanism of the disputed domain names to gain benefit is sufficient to recognize bad faith use of the disputed domain names. Accordingly, Examiner finds that Respondent registered and is using the disputed domain names in bad faith.
Determination	After reviewing the parties' submissions, the Examiner determines that the Complainant has NOT demonstrated all three elements of the URS by a standard of clear and convincing evidence. The Examiner finds that the INTERBRAND and BRANDCHANNEL marks are protected trademarks of Complainant's. Respondents state they were not aware of Complainant's marks, they have not used the domain names, and they have offered the domain names to Complainant without cost. The Examiner finds Complainant has not proved bad faith registration and use by clear and convincing evidence. The Examiner hereby Orders the following domain names be RETURNED to the control of Respondent. <brandchannel.xyz> <interbrand.club>	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: brandchannel.xyz interbrand.club
Determination Date	23-May-16	15-Jun-16
Dissenting view:		
Who filed the appeal?	NA	Complainant
Who prevailed?	Respondent	Complainant
How long did it take?	18 days after submission	23 days after original decision
Final disposition of the domain:	Names appears to have resolved up until the original decision outcome and once the Registry was notified.	brandchannel.xyz: On or about 11 Mar 2016 the domain was registered with .sedoparking.com; On or about 24 May 2016 the nameservers changed to adrforum.com; On or about 11 March 2017 the domain entered AutoRenewPeriod; On or near 22 May 2017 the domain was registered by CSC as a new registration and new CreateDate (no records to show it went through PendingDelete); On or about 30 Aug 2017, the domain was renewed into 2019 interbrand.club: This domain's history matches brandchannel.xyz except the CreateDate from CSC occurred on 15 Apr 2017 and renewed for two years on 9 Apr 2018.
Were the URS Rules and Procedures followed?		
Other comments:		

	Case	Appeal
Provider	FORUM	FORUM
Case Number	1681062	1681062
Link	http://www.adrforum.com/domaindecisions/1681062F.htm	http://www.adrforum.com/domaindecisions/1681062A.htm
Domain(s)	grey.email	grey.email
Parties		
Complainant	Grey Global Group LLC	Grey Global Group LLC
Complainant Representative	Fross Zelnick Lehrman & Zissu, P.C.	
Respondent(s)	i-content Ltd. / Zweigniederlassung Deutschland	i-content Ltd.
Respondent Representative	BOEHMERT & BOEHMERT	
Registries & Registrars		
Registry	Spring Madison, LLC	Spring Madison, LLC
Registrar	GoDaddy.com, LLC	GoDaddy.com, LLC
Examiner	Ms. Marie Emmanuelle Haas, as Examiner.	Mr. Peter Müller, as Examiner.
Procedural History		
Complainant Submitted	24-Jun-16	14-Jul-16
Commencement	27-Jun-16	
Response	8-Jul-16	27-Jul-16
Relief Sought	Complainant requests that the domain name be suspended for the life of the registration.	Complainant requests that the domain name be suspended for the life of the registration.
Standard of Review	Clear and convincing evidence.	Clear and convincing evidence.
Findings & Discussion		
Findings of Fact	<p>URS Procedure 1.2.6, requires Complainant to prove, by clear and convincing evidence, each of the following three elements to obtain an order that a domain name should be suspended.</p> <p>URS Procedure 8.2 provides that “The burden of proof shall be clear and convincing evidence”. Complainant has failed to establish the first element necessary to succeed on a UDRP claim: that it owns trademark rights and that the Domain Name is identical to that trademark. The American trademark GREY No 2469398 on which the complaint is based is in the name of the American company Grey Global Group Inc (Delaware Corporation), whereas the complaint is filed in the name of the American company Grey Global Group LLC. There is no explanation on this difference.</p> <p>Therefore the Examiner finds that the Complainant has not present adequate evidence to substantiate its trademark rights in the domain name and rejects the Complaint</p>	<p>URS Procedure 1.2.6, requires the Complainant to prove, by clear and convincing evidence, each of the following three elements to obtain an order that a domain name should be suspended.</p> <p>[URS 1.2.6.1.] The registered domain name is identical or confusingly similar to a word mark:</p> <p>(i) for which the Complainant holds a valid national or regional registration and that is in current use; or</p> <p>(ii) that has been validated through court proceedings; or</p> <p>(iii) that is specifically protected by a statute or treaty in effect at the time the URS complaint is filed.</p> <p>The Complainant has not provided any evidence regarding the change of its name with the Complaint.</p> <p>URS Procedure 8.3 reads as follows: “This means that the Complainant must present adequate evidence to substantiate its trademark rights in the domain name (e.g., evidence of a trademark registration and evidence that the domain name was registered and is being used in bad faith in violation of the URS).”</p> <p>URS Procedure 9.1 reads as follows: “the evidence will be the materials submitted with the Complaint and the Response, and those materials will serve as the entire record used by the Examiner to make a Determination.”</p> <p>Under such circumstances, the Examiner finds that the Complainant’s email communication of July 8, 2016 is not part of the case record and that the Examiner had no obligation to make additional investigations. As a result, the evidence was not clear and convincing that the Complainant holds a valid national or regional word mark, as the named Complainant differed from trademark owner and as the Complainant failed to provide any explanation on this difference with the Complaint.</p> <p>However, the Complainant provided new evidence with regard to the change of its company name with the Appeal.</p>
Identical or Confusingly Similar		<p>URS procedure 12.1 reads as follows:</p> <p>“A limited right to introduce new admissible evidence that is material to the Determination will be allowed upon payment of an additional fee, provided the evidence clearly pre-dates the filing of the Complaint.”</p> <p>Given that the Complainant did pay the additional fee to introduce new admissible evidence under URS Procedure 12.2, the Examiner may take such evidence into account.</p> <p>Based on the evidence now available to the Examiner, the Examiner finds that the Complainant provided documentary evidence that it is inter alia registered owner of the US trademark registration no. 2,469,398 GREY, which was registered on July 17, 2001 for various goods in class 35, as well as documents to show that the trademark is in current use.</p> <p>The disputed domain name fully incorporates the Complainant’s GREY Mark and is identical to such mark, as the specific top level domain name is generally not an element of distinctiveness that can be taken into consideration when evaluating the identity or confusing similarity between the complainant’s trademark and the disputed domain name.</p> <p>The Examiner finds that the disputed domain name is confusing similar to the GREY Mark and that the Complainant satisfied the elements of URS Procedure 1.2.6.1.</p>
No rights or Legitimate Interests		<p>The Complainant argues that the Respondent has no legitimate right or interest to the disputed domain name, as the Complainant has never granted any license or other permission to the Respondent to use the GREY mark, as the Respondent has not been authorized by the Complainant to register or use any domain name incorporating the GREY mark, as the Respondent is not named or commonly known as GREY, and as the Respondent has no connection to the Complainant, its goods or services.</p> <p>The Respondent states that it intends to use the disputed domain name in connection with an email service, offering individuals, enterprises and organizations the possibility to create and use individual email addresses on basis of generic domain names registered in the new Top-Level-Domain names, especially in the “.email” TLD, and that it registered numerous generic domain names for use in connection with such service, inter alia <dance.email>, <service.email>, <martin.email>, and <white.email>. This raises a question as to whether the proposed use will be a legitimate fair use under URS Procedure 1.2.6.2. and the Complainant has, in the Examiner’s opinion, not met its “clear and convincing” burden of proof with respect to this element of the procedure. In sum, this is not a clear case of trademark abuse, URS Procedure 8.5, and the planned use of the Respondent does not seem to be illegitimate per se. See Stuart Weitzman IP, LLC v. yoyo.email et al., FA 1554808 (Forum, June 24, 2014); See also Banco Bilbao Vizcaya Argentaria, S.A. v. GandiYork SL et al., FA 1548656 (Forum, March 28, 2014).</p> <p>However, in the light of the Examiner’s finding below, it is not necessary for the Examiner to come to a decision in this regard.</p>
Bad Faith Registration and Use		<p>The Complainant states that he has used GREY as a service mark in connection with advertising agency, marketing, branding, promotional, and related services since 1917 and that it owns trademark registrations in over 40 countries and jurisdictions, including Europe.</p> <p>The Respondent, on the other hand, states that it registered the Domain Name because “grey” is a dictionary word and a purely descriptive term and also a common family name and intends to use it in connection with an email service.</p> <p>Given that the Domain Name in fact corresponds to a generic term, that the Respondent has registered numerous similar generic domain names, such as <white.email>, <martin.email>, <hans.email>, or <one.email>, that the Domain Name was used in connection with a parking website with sponsored links using the term “grey” solely in a descriptive way and not in connection with the Complainant’s services, and that the Complainant has not provided evidence as to its business activities in Germany, where the Respondent is located, the Examiner finds that the evidence is not clear and convincing that the domain name was registered in bad faith. Given that the URS is not intended for use in any proceedings with open questions of fact, but only clear cases of trademark abuse, the Examiner finds that the Complainant has not satisfied the elements of URS Procedure 1.2.6.3.</p>
Determination	After reviewing the parties’ submissions, the Examiner determines that the Complainant has NOT demonstrated all three elements of the URS by a standard of clear and convincing evidence; the Examiner hereby Orders the following domain names be RETURNED to the control of Respondent. <grey.email>.	After reviewing the parties’ submissions, the Examiner determines that the Complainant has NOT demonstrated all three elements of the URS by a standard of clear and convincing evidence; the Examiner hereby Orders the following domain name be RETURNED to the control of Respondent.<grey.email>
Determination Date	8-Jul-16	10-Aug-16
Dissenting view:		
Who filed the appeal?	NA	Complainant
Who prevailed?	Respondent	Respondent
How long did it take?	14 days after submission	33 days after original decision
Final disposition of the domain:	Name appears to have resolved to a parked page through the case.	On or about 27 Mar 2015 the domain entered AutoRenewPeriod; On or about 10 May 2015 the domain was renewed for 1 yr.; On or around 27 Mar 2016 the domain went to AutoRenewPeriod; On or about 12 June 2016 the domain was newly registered with new CreateDate by i-content with sedoparking.com nameservers. On or about 13 Jul 2016 the nameservers were changed to domaincontrol.com. On or about 26 Jan 2018 the nameservers were changed to memail-dns.com where it remains today and forwards to memail.com. No WhoWas records were found that the domain’s nameservers were changed to adrforum.com.
Were the URS Rules and Procedures followed?		
Other comments:	URS filed well beyond TLD Claims window as the name was registered 26-Mar-2014	

	Case	Appeal
Provider	FORUM	FORUM
Case Number	1716444	1716444
Link	http://www.adrforum.com/domaindecisions/1716444F.htm	http://www.adrforum.com/domaindecisions/1716444A.htm
Domain(s)	greubel-forsey.watch	greubel-forsey.watch
Parties		
Complainant	GFPI S.A.	Appellant (hereinafter referred to as "the Complainant"): GFPI S.A.
Complainant Representative	SOPRINTEL S.A.	SOPRINTEL S.A.
Respondent(s)	Michael Meyer / Dario Baumgartner-Hostpoint AG / Sicherheitsbeauftragter Flughafenpolizei	Michael Meyer / Dario Baumgartner-Hostpoint AG / Sicherheitsbeauftragter Flughafenpolizei
Respondent Representative		
Registries & Registrars		
Registry	Sand Shadow, LLC	Sand Shadow, LLC
Registrar	Ascio Technologies, Inc. Danmark – Filial af Ascio technologies, Inc. USA	Ascio Technologies, Inc. Danmark – Filial af Ascio technologies, Inc. USA
Examiner	Petter Rindforth, as Examiner.	Mr. Peter Müller, as Examiner.
Procedural History		
Complainant Submitted	8-Feb-17	6-Mar-17
Commencement	8-Feb-17	
Response	20-Feb-17	8-Mar-17
Relief Sought	Complainant requests that the domain name be suspended for the life of the registration.	Complainant requests that the domain name be suspended for the life of the registration.
Standard of Review	Clear and convincing evidence.	Clear and convincing evidence.
Findings & Discussion		
Findings of Fact	<p>The Complainant is the owner of the trademark GF GREUBEL FORSEY (combined), registered in Switzerland as Reg. No. P-516451 on November 25, 2003, and renewed on May 8, 2013, covering goods in Intl Class 14, the said registration being the base for the Complainant's International Registration No 828152 of March 26, 2004, covering more than 70 countries and regions world wide.</p> <p>The Complainant has provided evidence of use of the trademark, by Certificate of Validation from the Trademark Clearinghouse.</p> <p>The disputed domain name <greubel-forsey.watch> was registered on January 10, 2017.</p>	
Identical or Confusingly Similar	<p>The Complainant met the standard sets out in 1.2.6.1. of the URS Procedure since the Complainant has proved its right to the valid Swiss Trademark registration No. P-516451 GF GREUBEL FORSEY (combined), and International Registration No 828152 GF GREUBEL FORSEY. Further, the Complainant has proved that the said trademark is in current use by presenting Certificate of Validation from the Trademark Clearinghouse. The relevant part of the disputed domain name is <greubel-forsey.watch> as the added top-level domain – being a required element of every domain name – is generally irrelevant when assessing whether or not a mark is identical or confusingly similar and in this case does nothing to distinguish the disputed domain name from the Complainant's trademark.</p> <p>However, in this case the added top-level domain clearly relates to the goods covered by the Complainant's trademark, and therefore in fact increase the similarity. The disputed domain name thereby consists of the dominant word part of the Complainant's trademark GREUBEL and FORSEY - although the two words here combined with a hyphen.</p> <p>The Examiner concludes that the disputed domain name is confusingly similar to the Complainant's trademark GF GREUBEL FORSEY.</p>	<p>The Complainant has provided evidence that it is registered owner of a Swiss trademark for GF GREUBEL FORSEY. The Examiner concludes that the disputed domain name is confusingly similar to the Complainant's trademark as the specific top level domain name is generally not an element of distinctiveness that can be taken into consideration when evaluating the identity or confusing similarity between the complainant's trademark and the disputed domain name and as the disputed domain name reproduces the Complainant's trademark with the exception of the acronym "GF".</p> <p>Therefore, the Complainant satisfied the elements of URS Procedure 1.2.6.1.</p>
No rights or Legitimate Interests	<p>The Respondent does not have any rights in <greubel-forsey.watch>, as the Complainant has not authorized the Respondent to register a domain name containing its registered and used trademark GF GREUBEL FORSEY.</p> <p>As GF GREUBEL FORSEY is a distinctive and well known trademark, especially for watches, the Examiner also draw the conclusion that the Complainant has shown that the Respondent cannot have any legitimate interests in registering and using <greubel-forsey.watch>.</p> <p>The Examiner further notes that the Respondent has not contested the Complainant's allegations in this part.</p> <p>To summarize, the Examiner find that the Complainant has established that the Respondent has no rights or legitimate interests in <greubel-forsey.watch>.</p>	<p>The Complainant has substantiated that the domain owner has no rights or legitimate interests in the disputed domain name. The Respondent did not deny the Complainant's assertions in any way and therefore failed to prove any rights or legitimate interests in the disputed domain name. In fact, the disputed domain name resolves to a placeholder website with no real or relevant content.</p> <p>The Examiner finds that the Respondent has no rights to or legitimate interests in the disputed domain name and that the Complainant satisfied the elements of URS Procedure 1.2.6.2.</p>
Bad Faith Registration and Use	<p>In this case, the Complainant has shown that the Respondent has linked the disputed domain names to a web site simply stating (in French): "Bonjour, ce domaine vient d'être acheté...", meaning "Hello, this domain has just been bought...", and then followed by some general information (in French) of what the domain name holder can do by using the domain name services offered by a company called Hostpoint.</p> <p>The Respondent states that the disputed domain name is parked and not in use, that a domain name is not the same as a trademark, and that therefore "the mere registration of a domain name is not considered a breach of trademark rights".</p> <p>The Examiner is however not convinced by the Respondent's limited arguments. The Respondent is from the same country as the complainant - Switzerland. The Respondent has shown no legitimate interest in the disputed domain name - only pointed out that the Respondent "was just faster than [the Complainant] to register <greubel-forsey.watch>". These facts and statement further clearly indicates that the Respondent registered the disputed domain name in bad faith.</p> <p>The use, even if it is not traditionally active use, to point <greubel-forsey.watch> to a parking site, with just general information on what a holder of a domain name can do with activating e-mail, creating web sites, etc, are further indications and messages to the Complainant that this domain name - clearly referring to the goods provided by the Complainant - can or will shortly be used in some way. The Examiner cannot see this in any other way than a "hidden" message to the Complainant to quickly buy <greubel-forsey.watch> from the Respondent - likely for valuable consideration in excess of documented out-of pocket costs directly related to the domain name.</p> <p>Thus, the Examiner concludes that the Complainant has established that the Respondent has registered and used <greubel-forsey.watch> in bad faith.</p>	<p>The disputed domain name corresponds to the Complainant's highly distinctive trademark GF GREUBEL FORSEY. Furthermore, the top level of the disputed domain name clearly refers to the Complainant's products, namely watches. It is inconceivable that the Respondent registered the disputed domain name unaware of the Complainant and its rights in the trademark GF GREUBEL FORSEY.</p> <p>As to bad faith use, the Examiner is convinced that the disputed domain name was used in bad faith as well. At present, the disputed domain name is inactive. Previous URS decisions have held that the passive holding of a domain name could support, by clear and convincing evidence, that a domain name is being used in bad faith. However, passive holding does not per se lead in a finding of bad faith use. See Netflix, Inc. v. Masterclass Media et al., FA 1639527 (Forum Oct. 2, 2015); Allianz SE v. Registrant of xn--49s296f.xn--3ds443g / Rich Premium Limited / Domain Administrator, FA 1579170 (Forum Oct. 1, 2014). On the contrary, passive holding is equal to active use in bad faith only under specific circumstances. See Telstra Corporation Limited v. Nuclear Marshmallows, D2000-0003 (WIPO Feb. 18, 2000).</p> <p>In the present case, the Examiner finds that the overall examination of the following facts of this case justify a finding of passive holding:</p> <ol style="list-style-type: none"> 1. The top level of the disputed domain name corresponds to the Complainant's main product and therefore, the disputed domain name clearly refers to the Complainant; 2. The Respondent has provided no evidence whatsoever of any actual or contemplated good faith use; 3. There does not appear to be any possible or conceivable good faith use of the disputed domain name that would not be illegitimate. <p>Furthermore, the Complainant also contends that the disputed domain name prevents it from reflecting its trademark in a corresponding domain name and that the disputed domain name was registered by the Respondent "in the hope to be contacted by the Complainant and in order to be able then to request the Complainant to buy it". Even though the Complainant has not provided supporting evidence in this regard, these motives seem to be very likely.</p>
Determination	<p>FINDING OF ABUSE or MATERIAL FALSEHOOD</p> <p>The Respondent has alleged that the Complaint was brought in an abuse of the URS Policy, referring to that the disputed domain name is parked and therefore not in use.</p> <p>As stated above, the Examiner notes that "parking sites" may well be considered as use, as the domain name in fact relates to a web site with some information and/or messages to the visitors, seeking for information on the Complainant and their trademark and goods.</p> <p>As the Examiner finds that the Complainant has established that the Respondent has registered and used <greubel-forsey.watch> in bad faith, the Examiner cannot find any evidence of abuse.</p> <p>DETERMINATION</p> <p>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 be SUSPENDED for the duration of the registration :</p>	<p>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 names be SUSPENDED for the duration of the registration.</p> <p><greubel-forsey.watch></p>
Determination Date	21-Feb-17	22-Mar-17
Dissenting view:		
Who filed the appeal?	NA	Respondent
Who prevailed?	Complainant	Complainant
How long did it take?	13 days after submission	29 days after original decision
Final disposition of the domain:	Name appears to have resolved after the outcome of the original case and once the Registry was notified.	On or about 21 Feb 2017, the nameservers were changed to adrforum.com; On or about 10 Jan 2018 the domain entered AutoRenewPeriod; On or about 24 Feb 2018, the domain is renewed and still assigned to the adrforum nameservers and resolving to URS suspension page.
Were the URS Rules and Procedures followed?		
Other comments:	Domain first registered several years after new TLD launch and claims.	