



## URS DEFAULT DETERMINATION

Factory X Pty Ltd et al. v.  
Claim Number: FA2310002066639

### DOMAIN NAME

<gormanau.shop>

### PARTIES

Complainant: Gorman Brands Pty Ltd of Abbotsford VIC, Australia  
Complainant Representative: K&L Gates Jonathan Feder of Melbourne VIC, USA

Respondent: Pergrem kelly of Suffolk, VA, US

### REGISTRIES and REGISTRARS

Registries: GMO Registry, Inc.  
Registrars: West263 International Limited

### EXAMINER

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

David L. Kreider, as Examiner

### PROCEDURAL HISTORY

Complainant Submitted: October 17, 2023

Commencement: October 19, 2023

Default Date: November 3, 2023

Having reviewed the communications records, the Examiner finds that the Forum has discharged its responsibility under URS Procedure Paragraphs 3 and 4 and Rule 4 of the Rules for the Uniform Rapid Suspension System (the "Rules").

### RELIEF SOUGHT

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

### STANDARD OF REVIEW

Clear and convincing evidence.

### FINDINGS and DISCUSSION

Findings of Fact: The Complainant, Factory X Pty Ltd, is the exclusive licensee of the registered GORMAN trade marks (the "Mark") (including Australian trade mark registration number 1484739) from Gorman Brands Pty Ltd., represented by Messrs. K&L Gates of Melbourne, Australia. The disputed domain name is <gormanau.shop> ("Domain Name"). The Respondent has registered the Domain Name without the permission of the Complainant or Gorman. The Domain Name is identical with or confusingly similar to the Mark as it incorporates the Mark in full, with the addition of 'au', which is an abbreviation for Australia, and the TLD 'shop'. The Complainant has shown by clear and convincing evidence that the Domain Name resolves to a website which is virtually indistinguishable from the Complainant's official website, using Gorman photographs to promote the distinctive Gorman getup and branding (including its hot pink colouring), in competition with the Complainant. The Domain Name misleadingly and in bad faith suggests that it provides access to a shop for genuine Gorman-branded goods when it does not.

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

[URS 1.2.6.1] The registered domain name(s) is/are identical or confusingly similar to a word mark:

- (i) for which the Complainant holds a valid national or regional registration and that is in current use; or
- (ii) that has been validated through court proceedings; or
- (iii) that is specifically protected by a statute or treaty in effect at the time the URS complaint is filed.

**Determined: Finding for Complainant**

The Domain Name is identical or confusingly similar to a word mark for which the Complainant holds a valid national or regional registration and that is in current use.

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

**Determined: Finding for Complainant**

The Complainant alleges that the Registrant has no legitimate right or interest to the domain name. The Registrant has failed to submit a response timely, or at all, and has not refuted the Complainant's allegations which are, accordingly, accepted by the Examiner as true.

[URS 1.2.6.3] The domain name(s) was/were registered and is being used in bad faith.

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

**Determined: Finding for Complainant**

By using the Domain Name, the Registrant has intentionally attempted to attract for commercial gain, Internet users to Registrant's web site or other on-line location, by creating a likelihood of confusion with the Complainant's Mark as to the source, sponsorship, affiliation, or endorsement of Registrant's web site or location or of a product or service on that web site or location.

**FINDING OF ABUSE or MATERIAL FALSEHOOD**

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

The Examiner finds as follows:

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

**DETERMINATION**

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

1. gormanau.shop

David L. Kreider  
Examiner

Dated: November 3, 2023