

Decision for dispute CAC-UDRP-100279

Case number	CAC-UDRP-100279
Time of filing	2011-07-11 10:58:22
Domain names	GOLFSHOESECCO.COM

Case administrator

Name	Tereza Bartošková (Case admin)
------	--------------------------------

Complainant

Organization	ECCO Sko A/S
--------------	--------------

Complainant representative

Organization	Chas. Hude A/S
--------------	----------------

Respondent

Name	Jay Kumar
------	-----------

OTHER LEGAL PROCEEDINGS

The Panel is not aware of other legal proceedings with regard to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant - a well-known producer of golf shoes - has cited multiple trademark registrations for ECCO for use in connection with footwear (country, trademark, reg. no., reg. date, status)

EU, ECCO, 001149871, 06-02-2003, Registered
USA, ECCO, 1935123, 14-11-1995, Registered
Canada, ECCO, 280654, 26-3-1983, Registered
Australia, ECCO, 375267A, 10-5-1982, Registered
China, ECCO, 208743, 30-5-1984, Registered

and other trademarks (country, trademark, reg. no., reg. date, status):

Denmark, ECCOGOLF, VR 2005 04841, 02-12-2005, Registered
Denmark, GOLF STREET, VR 2010 01790, 12-07-2010, Registered
IR designating the EU, China, Japan, Rep. of Korea and USA, GOLF STREET, 1059471, 12-11-2010, Registered (Japan: Examination in progress; USA: provisional refusal of protection)

In addition to the aforementioned trademarks, Complainant has registered several domain names consisting of ECCO or containing ECCO in combination with SHOE/S, e.g. ECCO.COM, ECCOSHOE.COM, ECCOSHOES.COM, ECCOSHOES.ASIA or in combination with GOLF, e.g. ECCOGOLF.COM, ECCO-GOLF.COM, ECCOGOLF.DK, ECCO-GOLF.DK, ECCOGOLF.EU and ECCOGOLF.IN.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The disputed domain name contains Complainant's trademark ECCO in full, together with some generic terms, which meaning is related to Complainant's business and products. Therefore, the disputed domain name is confusingly similar to Complainant's trademark (Policy, Par. 4 (a)(1)).

Respondent has no rights in the trademark ECCO and is not a reseller/licensee of Complainant, use of the trademark ECCO by Respondent has never been authorized by Complainant, and Respondent is using his website to promote the sale of third parties' goods. Accordingly, Respondent has no rights or legitimate interests in respect of the domain name (policy, Par. 4 (a)(11)).

ECCO constitute the most distinctive element of the disputed domain name. Respondent is attempting to divert Internet users to his domain name by creating a likelihood of confusion. Respondent is exploiting the goodwill attached to Complainant's trademarks for selling goods bearing trademarks owned by Complainant's competitors. For all these reasons, Complainant finds that the disputed domain name was registered and is used in bad faith (Policy, Par. 4(a)(iii)).

In all the aforementioned circumstances, Complainant finds that the disputed domain name has been registered and is used in bad faith.

PARTIES CONTENTIONS

No administratively compliant response has been filed. But the Respondent stated in an email to the Case Administrator, dated August 17, 2011

"I confirm to Ms. Tereza Bartošková that I am willing to give the domain GOLFSHOESECCO.COM".

Prior to this email the Respondent had agreed without reservations in an email correspondence with the Representative of the Complainant to transfer the domain name to the Complainant.

RIGHTS

./.

NO RIGHTS OR LEGITIMATE INTERESTS

./,

BAD FAITH

./.

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The parties settled their dispute extrajudicial. Hence it is irrelevant whether the complainant has shown with sufficient

conclusiveness that the conditions for transfer of the domain name in dispute as defined in Paragraph 4(a) UDRP have been met. The Panel is also prevented from examining the facts of the case because it is not the purpose of the procedure to bring about decisions on legal issues that do not require examination and discussion in order to do justice to a claim. However, the parties can settle their dispute only to the extent that they have dispositional authority to do so. This means that a Panel decision cannot be made solely on the basis of a settlement if the settlement has prohibited legal consequences. But there has so far been no indication that the settlement is in conflict with the UDRP or with good morals.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Settled

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **GOLFSHOESECCO.COM**: Transferred

PANELLISTS

Name	Prof. Dr. Lambert Grosskopf, LL.M.Eur.
------	--

DATE OF PANEL DECISION 2011-08-17

Publish the Decision