Decision for dispute CAC-UDRP-100352

Case number	CAC-UDRP-100352
Time of filing	2011-12-09 11:19:06
Domain names	ECCOSANDAL.COM

Case administrator

Name	Tereza Bartošková (Case admin)

Complainant

Organization	ECCO Sko A/S

Complainant representative

Organization	Chas. Hude A/S

Respondent

Name	lin yun xin

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

Complainant is the owner of the following trademarks "ECCO" registered in several jurisdictions worldwide for footwear:

Community Trademark Reg. No. 001149871, reg. date 06/02/2003
Community Trademark Reg. No. 002967040, reg. date 02/05/2007
US Trademark Reg. No. 1935123, reg. date 14/11/1995
Canadian Trademark Reg. No. 280654, reg. date 26/3/1983
Australian Trademark reg. No. 375267, reg. date 10/5/1982
Chinese Trademark Reg. No. 208743, reg. date 30/5/1984

FACTUAL BACKGROUND

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

Language of the proceedings.

The Complainant respectfully request that the language of the proceedings be English. The domain name contains the English word SANDAL. The text on the website of the Respondent is in English. The goods sold on the website are referred to with English terms. The contact e-mail on the homepage is also in English. All these circumstances show that the Respondent is proficient in English, and therefore he/she will not be disadvantaged if thelanguage of the proceedings would be English.

Legal basis.
The disputed domain name contains Complainant's trademark ECCO in full. The addition of the generic term SANDAL does not preclude, but even enhance the risk of confusion / likelihood of association with the Complainant's trademark and company name. 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. Accordingly, Respondent has no rights or legitimate interests in respect of the domain name (policy, Par. 4 (a)(11)).

The fact that the Complainant's trademark ECCO constitutes the dominant element of the disputed domain name, and that the Complainant's logo is used by the Respondent without the rightful owner's authorization constitute strong evidence of the fact that the Respondent is attempting to divert Internet users to his domain name by creating a likelihood of confusion with the Complainant's trademarks, company name and domain names.

Furthermore, the Respondent is exploiting the goodwill attached to Complainant's trademarks for selling goods which are very likely counterfeit as well as goods bearing third parties' trademarks.

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.

CAC's and WIPO's decisions in the following complaint proceedings support the case:

CAC:
Case No. 100259, ECCOSHOESSHOP.COM
Case No. 100278, ECCOSHOESUK.NET
Case No. 100311, UKECCOSHOES.NET
Case No. 100321, ECCOSKOUDSALG.COM
Case No. 100312, ECCOSALEONLINE.COM
Case No. 100305, ECCOONLINESALE.COM

WIPO:
Case No. D2010-2038, ECCODISCOUNT.COM
(http://www.wipo.int/amc/en/domains/search/text.jsp?case=D2010-2038)
Case No. D2010-1443, ECCOBRANDSHOP.COM, ECOOSHOP.COM
http://www.wipo.int/amc/en/domains/search/text.jsp?case=D2010-1443)
Case No. D2010-1113, 51ECCO.COM
(http://www.wipo.int/amc/en/domains/search/text.jsp?case=D2010-1113)
Case No. D2010-0650, ECCOSHOESOUTLET.COM, ECCOSHOESOUTLETS.COM, ECCOSHOESOUTLETS.NET
(http://www.wipo.int/amc/en/domains/decisions/text/2010/d2010-0650.html)

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Domain Name is identical or confusingly similar to a trademark or service mark in which the complainant has rights (within the meaning of paragraph 4(a)(i)of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the Domain Name (within the meaning of paragraph 4(a)(ii)of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the Domain Name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii)of the Policy).

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

I. Acc. to paragraph 11 (a) of the Rules, the language of the proceedings would be Chinese, as the language of the Registration Agreement is Chinese. However, in view of the circumstances contented by COMPLAINANT, that RESPONDENT is proficient in English, the Panel decides that the language of the proceedings shall be English.

II. As RESPONDENT did not file any response, Panel may draw such inferences therefrom as it considers appropriate (paragraph 14 (b) of the Rules). Particularly, Panel may accept the contentions of COMPLAINANT as admitted by the Respondent.

III. COMPLAINANT has proven that it has own registered trademark rights in the mark "ecco" for footwear,

further that the domain name in dispute is confusingly similar to its trademarks,

further that the RESPONDENT has no rights or legitimate interest in the domain name in dispute, and

that RESPONDENT has registered the domain name in dispute in bad faith and is using it in bad faith. Bad faith is particularly demonstrated by the RESPONDENT'S use of the logo of COMPLAINANT, the offer of counterfeit products and by the use of the names of other trademark owners.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ECCOSANDAL.COM**: Transferred

PANELLISTS

Name	**Dominik Eickemeier**

DATE OF PANEL DECISION 2012-01-16

Publish the Decision