Decision for dispute CAC-UDRP-100353

Case number	CAC-UDRP-100353
Time of filing	2011-12-09 13:02:12
Domain names	CHEAPECCO.COM

Case administrator

Name	Tereza Bartošková (Case admin)

Complainant

Organization	ECCO Sko A/S

Complainant representative

Organization	Chas. Hude A/S

Respondent

Organization	google smart

OTHER LEGAL PROCEEDINGS

The Panel is not aware of other legal proceedings.

IDENTIFICATION OF RIGHTS

Community Trademark Reg. No. 001149871, Community Trademark Reg. No. 002967040, US Trademark Reg. No. 1935123, Canadian Trademark Reg. No. 280654, Australian Trademark reg. No. 375267, Chinese Trademark Reg. No. 208743

FACTUAL BACKGROUND

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

The disputed domain name contains Complainant's trademark ECCO in full. The addition of the generic term CHEAP 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.

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
Case No. 100327, ECCOONLINESALEUSA.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

The Complainant has shown that it holds registered trademark rights in the term "ecco" for shoes. The rights are sufficiently similar to the contested domain name as the portion "cheap" is seen as merely descriptive for the remaining part "ecco".

There is no indication that the Respondent has rights or legitimate interests in the contested domain name.

The Complainant asserts and the Respondend does not contend that the Respondent offers under the contested domain name shoes which are not originals of the Complainant and which are designated with the Complainant's "ecco" mark whithout the Complainant's consent. This amounts to a use of the contested domain name in bad faith. The course of use of the contested domain name leads, furhtermore, to the conclusion that the contested domain name has been registered for the only purpose to use the domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **CHEAPECCO.COM**: Transferred

PANELLISTS

Name	**Dr. Uli Foerstl**

DATE OF PANEL DECISION 2012-01-20

Publish the Decision