Decision for dispute CAC-UDRP-100345

Case number	CAC-UDRP-100345
Time of filing	2011-11-25 10:58:45
Domain names	ECCODEUTSCHLAND.COM

Case administrator

Name	Tereza Bartošková (Case admin)

Complainant

Organization	ECCO Sko A/S

Complainant representative

Organization	Chas. Hude A/S

Respondent

Name	Robert Parker

IDENTIFICATION OF RIGHTS

The Complainant is the owner of trademark registrations for ECCO in several jurisdictions worldwide, among others the following, in classes that include leatherware or footware:

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 26/03/1983
Australian Trademark reg. No. 375267, reg. date 10/05/1982
Chinese Trademark Reg. No. 208743, reg. date 30/05/1984.

In addition, the Complainant has a large portfolio of domain names consisting of, or containing, the trademark ECCO, including ECCO.COM, ECCOSHOE.COM, ECCOSHOES.COM, ECCOSHOES.ASIA, ECCOBRANDSHOP.COM, ECCOSHOPS.COM, ECCOSHOPS.DK, ECCO-SHOP.DK and ECCOSHOPPING.NL.

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 country name

DEUTSCHLAND does not preclude 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 and pictures taken from Complainant's website and catalogue are 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.

The Complainant is also of the opinion that, in these particular circumstances, the Respondent's use of a privacy service to hide his real name and address must be considered an evidence of the Respondent's bad faith registration and use of the disputed domain name.

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

The Complainant has satisfied its burden to demonstrate all three elements of the UDRP, to the satisfaction of the Panel. The Respondent has not responded to Complainant's allegations, and otherwise has been proved to have registered and used the domain name in bad faith. Therefore the domain name registration shall be transferred to Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ECCODEUTSCHLAND.COM**: Transferred

PANELLISTS

Name	**Mike Rodenbaugh**

DATE OF PANEL DECISION 2011-12-30

Publish the Decision