

Decision for dispute CAC-UDRP-100348

Case number	CAC-UDRP-100348
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Time of filing	2011-12-02 10:47:41
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Domain names	ECCOSHOP.ORG
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Case administrator

Name	Tereza Bartošková (Case admin)
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Complainant

Organization	ECCO Sko A/S
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Complainant representative

Organization	Chas. Hude A/S
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Respondent

Name	Tederra Simmons
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OTHER LEGAL PROCEEDINGS

The panel is not aware of any other proceedings related to the domain name in dispute.

IDENTIFICATION OF RIGHTS

The Complainant relies inter alia on trademarks for ECCO, among them Community trademarks 001149871 and 002967040.

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 SHOP 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)(1)).

The fact that the Complainant's trademark ECCO constitutes the first and dominant element of the disputed domain name 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 a competitor's trademark.

For all these reasons, the Complainant claims that the disputed domain name was registered and is used in bad faith (Policy, Par. 4(a)(iii)).

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 Panel finds that the disputed domain name "eccoshop.org" is confusingly similar to the Complainant's "ECCO" trademarks

since the element “shop” is not distinctive for a website advertising goods. The Complainant contends that the Respondent is not making a legitimate non-commercial or fair use of the disputed domain name, and is not commonly known under the disputed domain names.

In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of “eccoshop.org”.

The Complainant also proved that the Respondent, inter alia, is using the disputed domain on a website advertising competing goods covered by Complainant’s trademarks and is therefore intentionally attempting to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with Complainant’s trademark.

The Panel accordingly finds that the disputed domain name was registered and is used in bad faith in accordance with paragraph 4 (a) (iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ECCOSHOP.ORG**: Transferred

PANELLISTS

Name	Dietrich Beier
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DATE OF PANEL DECISION 2012-01-16

Publish the Decision
