

Decision for dispute CAC-UDRP-104579

Case number CAC-UDRP-104579

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Domain names moonbootpolska.com, moonbootaustralia.com, moonbootbelgie.com, moonbootcanada.com, moonbootenucuz.com, moonbootfrance.com, moonboothrvatska.com, moonbootireland.com, moonbootnederland.com, moonbootnz.com, moonbootsleva.com, moonbootslovenija.com, moonbootsuomi.com, moonbootsverige.com, moonboottilbud.com, moonbootuk.com, moonbootusa.com, moonbootitalia.com

Case administrator

Organization Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization TECNICA GROUP S.P.A.

Complainant representative

Organization Convey srl

Respondent

Organization Web Commerce Communications Limited

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 names.

IDENTIFICATION OF RIGHTS

The Complainant relies on the following registered trademarks:

- International trademark no. 438194 for the word mark “MOON BOOT” registered on 25 May 1978 in Class 25;
- International trademark no. 1106792 for a logo comprising a representation of the words “MOON BOOT” registered on 18 November 2011 in Classes 9, 18 and 25;
- EU trademark no. 009988544 for the word mark “MOON BOOT” registered on 28 October 2011 in Classes 11, 12, 16, 20, 24, 28, 32, 33, 35 and 43;
- EU trademark no. 010056372 for a logo comprising a representation of the words “MOON BOOT” registered on 10 June

2012 in Classes 9, 18 and 25;

• US trademark no. 79109141 for a logo comprising a representation of the words "MOON BOOT" registered on 18 November 2011 in Classes 9, 18 and 25.

FACTUAL BACKGROUND

In the early 1970s the Complainant created a snow boot originally for use as apres-ski wear which it sold under the mark "MOON BOOT". Since then, it has sold 25 million pairs of these boots. Some well-known celebrities regularly wear the Complainant's boots sold under this mark.

The Complainant has registered various domain names with "moonboot" as the second level domain, including <moonboot.com>, <moonboot.it>, <moonboot.eu> and <moonboot.cn>.

The disputed domain names were registered without the Complainant's authorisation between 22 November 2021 and 17 December 2021, all with the same registrar, Alibaba.com Singapore. They have all been pointed to websites selling or purporting to sell goods under the mark "MOON BOOT". These websites have the same or similar favicon, header, footer, layout, products and images copied from the Complainant's website without its consent. The products are offered for sale on these websites at half of the Complainant's prices.

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

RIGHTS

The Panel finds that the Complainant has registered rights in the mark "MOON BOOT". The Panel further finds that the disputed domain names are confusingly similar to this mark. They all contain the mark in its entirety followed by another term and the .com generic top level domain suffix. In most cases the term following "moonboot" is the name or abbreviation of a country. Internet users would expect these domain names to locate websites of the Complainant, in most cases focusing on the country whose name or abbreviation they contain.

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 Panel notes that the disputed domain names were registered without any authorisation by the Complainant. The Panel is also satisfied on the evidence that the Respondent is not commonly known by any of the disputed domain names or any corresponding name.

The Panel accepts the Complainant's undisputed evidence that the Respondent is selling counterfeit products, having regard to the low prices and misuse of the Complainant's images. This does not constitute a bona fide offering of goods or services. Nor is a legitimate non-commercial or fair use of the domain name. On the contrary, it is a use with intent misleadingly to divert consumers seeking the Complainant's well-known brand for commercial gain.

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

BAD FAITH

As stated above, the Panel accepts the Complainant's undisputed evidence that the Respondent is selling counterfeit goods through the websites to which the disputed domain names are directed. The Panel also finds that the disputed domain names are confusingly similar to the Complainant's well-known brand and considers that the Respondent must have intended to mislead Internet users into believing that its websites are websites of the Complainant.

In these circumstances the Panel finds that by using the disputed domain names the Respondent has intentionally attempted to attract Internet users to its websites for commercial gain by creating a likelihood of confusion with the Complainant's mark as to the source of these websites. In accordance with paragraph 4(b)(iv) of the Policy, this constitutes evidence of registration and use of the disputed domain names in bad faith. There is no evidence displacing this presumption.

Accordingly, the Complainant has, to the satisfaction of the Panel, shown the disputed domain names have been registered and are being used in bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

PROCEDURAL FACTORS

The Panel is satisfied on the evidence that the disputed domain names have been registered by or under the control of the same person and that it is fair and equitable to consolidate the disputes.

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

Disputed domain names consist of Complainant's well-known mark in its entirety, followed by a country name or abbreviation or another term, and the general top level domain name suffix. They are directed to websites selling counterfeit products under the Complainant's mark. Respondent has no right or legitimate interest in the domain names and they are being used to attract Internet users to Respondent's websites for commercial gain by creating a likelihood of confusion. Presumption of bad faith in paragraph 4(b)(iv) of the UDRP applied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. MOONBOOTPOLSKA.COM: Transferred
2. MOONBOOTAUSTRALIA.COM: Transferred
3. MOONBOOTBELGIE.COM: Transferred
4. MOONBOOTCANADA.COM: Transferred
5. MOONBOOTENUCUZ.COM: Transferred
6. MOONBOOTFRANCE.COM: Transferred
7. MOONBOOTHRVATSKA.COM: Transferred
8. MOONBOOTIRELAND.COM: Transferred
9. MOONBOOTNEDERLAND.COM: Transferred
10. MOONBOOTNZ.COM: Transferred
11. MOONBOOTSLEVA.COM: Transferred
12. MOONBOOTSLOVENIJA.COM: Transferred
13. MOONBOOTSUOMI.COM: Transferred
14. MOONBOOTSVERIGE.COM: Transferred
15. MOONBOOTTILBUD.COM: Transferred
16. MOONBOOTUK.COM: Transferred
17. MOONBOOTUSA.COM: Transferred
18. MOONBOOTITALIA.COM: Transferred

PANELLISTS

Name	Jonathan Turner
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DATE OF PANEL DECISION 2022-06-27

Publish the Decision

