

Decision for dispute CAC-UDRP-105792

Case number	CAC-UDRP-105792
Time of filing	2023-09-20 09:21:55
Domain names	moonboots-canada.com, moonboot-france.com, moonbootstockholm.com, moonboots-romania.com, moonbootsslovenia.com, moonbootdubai.com, moonboot-greece.com, moonboot-southafrica.com, moonbootshrvatskahr.com, moonbootsmexlco.com, moonboot-japan.com, moonboots-israel.com, moonbootslreland.com, moonbootsslovenija.com, moonboot-italia.com, moonboots-hrvatska.com, moonbootssrbija.com, moonbootcsizma.com, moonbootbudapest.com, moonbootsportugal.com, moonboot-fr.com, moonbootshungary.com, moonsboothungary.com, moonsbootitalia.com, moonsbootisrael.com, moonbootuae.com, moonboot-slovenija.com, moonboot-srbija.com, moonbootssalg.com, moon-boots-ale.com, moon-boot-cz.com, moonbootturkey.com, moonboots-slovenija.com, moonboots-srbija.com, moon-boothrvatska.com, moonbootschuhe.com, moonbootschweiz.com, moonbootssgr.com, moonsbootgreece.com, moonboot-australia.com, moonbootoutlet.com, moonbootscanadasale.com, moonbootshoesireland.com, moonboot-singapore.com, moonbootssalg.com, moonbootsswitzerland.com, moonbootukshop.com, moonbootwien.com, sklepmoonbootpolska.com, ghetemoonbootromania.com, moonboothu.com, moonbootoutletespana.com, moonbootoutletfrance.com, moonbootoutletgreece.com, moonbootoutlethrvatska.com, moonbootoutletitalia.com, moonbootoutletslovenija.com, moonboot-portugal.com, moonboots-belgie.com, moonboots-nederland.com, moonbootsaustralias.com, moonbootsirelands.com, moonbootslondon.com, moonboots-nyc.com, moonboots-nz.com, moonbootsottawa.com, moonboots-southafrica.com, moonboots-usa.com, moonboots-chile.com, moonboots-deutschland.com, moonbootsitaly.com, moonbootsmalaysia.com, moonboots-mexico.com, moonbootsparis.com, moonboots-philippines.com, moonbootgreeceshop.com, moonboots-danmarks.com, moonboots-polska.com, moonboots-sverige.com, moonbootsbelgium.com, moonbootsnederlands.com, moonboot-norway.com, moonboot-sverige.com, moonbootssuomi.com, moonbootparis.com, moonbootssrbija.com, moonboot-ireland.com, moonbootsgreek.com
Case administrator	
Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)
Complainant	
Organization	TECNICA GROUP S.P.A.
Complainant representative	
Organization	Convey srl
Respondents	
Organization	Web Commerce Communications Limited

Name	Joseph Graham
Name	Christin Glockner
Name	Henry Busby
Name	Niklas Faber

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 is the owner of, inter alia, the following registered trademarks:

- International trademark MOON BOOT with registration nr. 438194 of May 25, 1978, registered for goods in class 25, designating several jurisdictions including the Benelux, Germany, France, Romania, Spain, and the United States;
- International trademark MOON BOOT (device) with registration nr. 1106792 of November 18, 2011 for goods in classes 9, 18 and 25, designating several jurisdictions including Switzerland, Turkey and the United States;
- European Union trademark MOON BOOT with registration number 009988544 of October 28, 2011 for goods and services in classes 11, 12, 16, 20, 24, 28, 32, 33, 35 and 43;
- European Union trademark MOON BOOT (device) with registration number 010056372 of June 10, 2012 for goods in classes 9, 18 and 25; and
- United States trademark MOON BOOT (device) with registration number 79109141 of November 6, 2012 for goods in classes 9, 18 and 25.

FACTUAL BACKGROUND

The Complainant is an Italian sport equipment manufacturer active in the sector of footwear and winter sports equipment. The Complainant created a MOON BOOT branded snow boot as après-ski wear in the early 1970s, with its design being inspired by the shape and technology of astronauts' boots. The boots became popular in the years following the Apollo 11 moon landing and resurfaced as a retro futuristic fashion trend in the early 2000s. The Complainant has sold 25 million of pairs. The Complainant has spent considerable effort in promoting the MOON BOOT mark, and MOON BOOT footwear has been worn by several celebrities and the Complainant. In addition to registering MOON BOOT as a trademark, the Complainant also registered several domain names consisting of or comprising the trademark MOON BOOT under several different top level domains (TLDs), including <moonboot.com>, which was registered on March 2, 2011, <moonboot.it>, registered on October 11, 2000, <moonboot.cn>, registered on January 18, 2012, <moonboot.eu>, registered on June 5, 2006.

The disputed domain names were registered between December 2021 and August 2023 as follows:

- December 17, 2021: <moonbootschuhe.com>
- November 10, 2022: <moonboots-com>, <moonboot-france.com>, <moonboot-greece.com>, <moonbootstockholm.com>, <moonboot-sverige.com>, <moonboot-ireland.com>, <moonboot-ireland.com>, <moonboot-italia.com>, <moonbootparis.com>, <moonbootbudapest.com>, <moonbootportugal.com>, <moonboot-slovenija.com> and <moonboot-srbija.com>
- November 11, 2022: <moonbootdubai.com> and <moonbootssuomi.com>
- November 21, 2022: <moonbootsrbija.com>
- November 22, 2022: <moonbootcsizma.com> and <moonbootschweiz.com>
- December 6, 2022: <moonbootsalg.com>
- December 8, 2022: <moonboot-com>, <moonboots-israel.com>, <moonboot-japan.com>
- December 10, 2022: <moonbootturkey.com>
- December 12, 2022: <moon-boots-com> and <moon-boot-cz.com>
- December 21, 2023: <moonbootshrvatskahr.com> and <moonbootsmexlco.com>
- January 10, 2023: <moonboots-com>
- January 12, 2023: <moonbootsslovenia.com>
- January 13, 2023: <moonbootsgreek.com>, <moonbootssireland.com> and <moonbootsslovenija.com>
- February 1, 2023: <moonboots-com>
- February 9, 2022: <moonbootssrbija.com> and <moonbootssgr.com>
- March 8, 2023: <moonbootshungary.com>, <moonboot-com>, <moonbootisrael.com> and <moon-boothrvatska.com>
- March 14, 2023: <moonbootshungary.com>, <moonbootitalia.com> and <moonbootuae.com>

- March 20, 2023: <moonboots-com> and <moonboots-srbija.com>
- August 3, 2023: <moonsbootgreece.com>
- August 10, 2023: <moonbootoutlet.com>
- August 11, 2023: <moonboot-com>, <moonbootscanadasale.com>, <moonbootshoesireland.com>, <moonboot-singapore.com>, <moonbootssalg.com>, <moonbootsswitzerland.com>, <moonbootukshop.com>, <moonbootwien.com>, <sklepmoonbootpolska.com>, <moonboothu.com>, <ghetemoonbootromania.com>, <moonbootoutletespana.com>, <moonbootoutletgreece.com>, <moonboots-belgie.com> and <moonboots-nederland.com>
- August 12, 2023: <moonbootoutletfrance.com>, <moonbootoutlethrvatska.com>, <moonbootoutletitalia.com>, <moonbootoutletslovenija.com> and <moonboot-com>
- August 25, 2023: <moonbootslondon.com>, <moonbootsirelands.com>, <moonbootsaustralias.com>, <moonboots-com>, <moonboots-nz.com>, <moonbootsottawa.com>, <moonboots-chile.com>, <moonboots-usa.com>, <moonboots-southafrica.com>, <moonboots-deutschland.com>, <moonbootsitaly.com>, <moonbootsmalaysia.com>, <moonboots-mexico.com>, <moonbootsparis.com>, <moonboots-philippines.com>, <moonbootgreceshop.com>, <moonboots-danmarks.com>, <moonboots-polska.com>, <moonboots-sverige.com>, <moonbootsbelgium.com> and <moonbootsnederlands.com>
- August 26, 2023: <moonboot-com>

All disputed domain names were registered in the name of Web Commerce Communications Limited, except the disputed domain names:

- <moonboot-com>, <moonbootparis.com> and <moonbootssuomi.com>, which were registered in the name of Joseph Graham on November 10 and 11, 2022;
- <moonbootsrbija.com>, which was registered in the name of Christin Glockner on November 26, 2022;
- <moonboot-ireland.com>, which was registered in the name of Henry Busby; and
- <moonbootsgreek.com>, which was registered in the name of Niklas Faber.

The Complainant demonstrated that the disputed domain names appear to be under the actual control of a single individual or entity or, at least, reflective of a group of individuals acting in concert. All disputed domain names resolve to websites which show the Complainant's trademark MOON BOOT and offer allegedly counterfeit MOON BOOT products for sale.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain names should be transferred to it.

No administratively compliant Responses have been filed.

RIGHTS

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 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

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 that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

1. Consolidation of the Respondents

The Complainant requested the disputed domain names and the named Respondents to be consolidated in a single UDRP proceeding. In its support of the request the Complainant alleged that the disputed domain names are subject to common control. The Complainant demonstrated that the disputed domain names resolve to six types of websites with a different home page which all use the trademark MOON BOOT and offer MOON BOOT branded products for sale and have the following similarities:

- the banner in the header dedicated to the free delivery, the lower price guarantee, the extra discount for the first order and the return policy;
- the flag of the countries connected to the relevant disputed domain name and the language of the website, the login link, the link of the new users' registration;
- the same favicon;
- the wording of the disclaimers: Copyright © 2023 "disputed domain name without the extension" Powered By "disputed domain name";
- the icons of Social Media indicated in identical position: Facebook, Twitter, Pinterest, Tumblr and Google+; and
- identical lay-out of the contact form.

The Complainant further alleged that the disputed domain names which are currently inactive, used to resolve to a website with the characteristics as listed above, which website was only put down after the Respondents received a cease-and-desist letter from the Complainant's counsel.

Previous UDRP panels have dealt with similar requests for consolidation of respondents, and the general panel view is, according to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), paragraph 4.11.2:

"Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario."

In the proceeding at hand, the Panel finds for the Complainant's undisputed request to consolidate the Respondents. The Panel is satisfied that the Complainant sufficiently demonstrated that the disputed domain names of the different Respondents use the same characteristics, and the registrar information for all Respondents except Niklas Faber, use the identical contact e-mail address. However, the Complainant shows that the disputed domain name <moonbootsgreek.com> of Niklas Faber resolves to the same website as the disputed domain name <moonbootshrvatskahr.com> which was registered in the name of Web Commerce Communications Limited. The Panel further observed that the disputed domain names which were registered in the names of Joseph Graham, Christin Glockner, Henry Busby and Niklas Faber exist of the Complainant's trademark MOON BOOT with a geographical label, just as the disputed domain names registered in the name of Web Commerce Communications Limited, and that the disputed domain names which were registered in the names of Joseph Graham, Christin Glockner, Henry Busby and Niklas Faber were registered in the same time frame and mostly on the same dates as the disputed domain names registered in the name of Web Commerce Communications Limited. The Complainant's allegations remain unchallenged. The Panel infers from the forgoing that it is rather likely that the different Respondents in the matter at hand are actual one and the same, or at least under common control. The facts of the case justify consolidation which the Panel finds fair and equitable to all parties.

2. The disputed domain names are confusingly similar to the Complainant's trademark

It is well established that the Top Level Domain ("TLD") – in the present case ".com" – maybe disregarded in the assessment under paragraph 4(a)(i) of the Policy (section 1.11. of WIPO Overview 3.0).

All the disputed domain names incorporate the Complainant's trademark MOON BOOT in its entirety, and add a geographic term such as a country's name, usually in the local language, or country code, a generic term such as "Schuhe", "csizma" and "ghete" (i.e., "boots" in German, Hungarian/ Croatian and Romanian, respectively), "sklep" (i.e. "store" in Polish), "outlet", "sale", or a combination of both. Such additions do not prevent a finding of confusing similarity between the disputed domain names and the Complainant's MOON BOOT trademark.

3. The Respondent has no rights or legitimate interests in respect of the disputed domain names

The Complainant must make a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name, which the Respondent may rebut (e.g., Croatia Airlines d.d. v. Modern Empire Internet Ltd., WIPO Case No. D2003-0455).

The Panel takes note of the various allegations of the Complaint and in particular, that the Respondent is not a licensee, authorized agent of the Complainant or in any other way authorized to use Complainant's MOON BOOT trademark, and more specifically, that the Respondent is not an authorized reseller of the Complainant and has not been authorized to the registration and use of the disputed domain names. The Complainant also alleged that the different websites to which the disputed domain names resolve offer MOON BOOT products significantly below market value for sale, misappropriate copyrighted images from the Complainant's website and conceal the Respondent's identity, from which it infers that the products offered by the Respondent are likely counterfeit products. In absence of a Response, the Panel agrees with the Complainant's postulation that the disputed domain names are likely used to offer counterfeit products such that there is no bona fide offering of goods, and the Oki Data test (cf. WIPO

Overview 3.0, paragraph 2.8) does not need to be applied.

The Panel is satisfied that the Complaint succeeded in making a prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

4. The disputed domain names have been registered and used in bad faith

In the Panel's view, it is obvious that at the time the Respondent registered the different disputed domain names it must have had the Complainant's MOON BOOT trademark in mind, as the Complainant secured registration for the MOON BOOT trademarks long before the registration of the disputed domain names, and the Respondent started using the disputed domain names to offer purportedly counterfeit MOON BOOT products with misappropriation of the Complainant's images and target customers of the Complainant's products upon registration of the disputed domain names.

Further, the Panel finds the Respondent's use of the disputed domain names to offer purportedly counterfeit MOON BOOT products on the associated websites is, an intentional attempt to attract, for commercial gain, Internet users to the Respondent's websites which constitutes use of the disputed domain names in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. moonboots-canada.com: Transferred
2. moonboot-france.com: Transferred
3. moonbootstockholm.com: Transferred
4. moonboots-romania.com: Transferred
5. moonbootsslovenia.com: Transferred
6. moonbootdubai.com: Transferred
7. moonboot-greece.com: Transferred
8. moonboot-southafrica.com: Transferred
9. moonbootshrvatskahr.com: Transferred
10. moonbootsmexlco.com: Transferred
11. moonboot-japan.com: Transferred
12. moonboots-israel.com: Transferred
13. moonbootslreland.com: Transferred
14. moonbootsslovenija.com: Transferred
15. moonboot-italia.com: Transferred
16. moonboots-hrvatska.com: Transferred
17. moonbootssrbija.com: Transferred
18. moonbootcsizma.com: Transferred
19. moonbootbudapest.com: Transferred
20. moonbootsportugal.com: Transferred
21. moonboot-fr.com: Transferred
22. moonbootshungary.com: Transferred
23. moonsboothungary.com: Transferred
24. moonsbootitalia.com: Transferred
25. moonsbootisrael.com: Transferred
26. moonbootuae.com: Transferred
27. moonboot-slovenija.com: Transferred
28. moonboot-srbija.com: Transferred
29. moonbootsalg.com: Transferred
30. moon-boots-ale.com: Transferred
31. moon-boot-cz.com: Transferred
32. moonbootturkey.com: Transferred
33. moonboots-slovenija.com: Transferred
34. moonboots-srbija.com: Transferred
35. moon-boothrvatska.com: Transferred

36. moonbootschuhe.com: Transferred
 37. moonbootschweiz.com: Transferred
 38. moonbootsgr.com: Transferred
 39. moonsbootgreece.com: Transferred
 40. moonboot-australia.com: Transferred
 41. moonbootoutlet.com: Transferred
 42. moonbootscanadasale.com: Transferred
 43. moonbootshoesireland.com: Transferred
 44. moonboot-singapore.com: Transferred
 45. moonbootssalg.com: Transferred
 46. moonbootsswitzerland.com: Transferred
 47. moonbootukshop.com: Transferred
 48. moonbootwien.com: Transferred
 49. sklepmoonbootpolska.com: Transferred
 50. ghetemoonbootromania.com: Transferred
 51. moonboothu.com: Transferred
 52. moonbootoutletespana.com: Transferred
 53. moonbootoutletfrance.com: Transferred
 54. moonbootoutletgreece.com: Transferred
 55. moonbootoutlethrvatska.com: Transferred
 56. moonbootoutletitalia.com: Transferred
 57. moonbootoutletslovenija.com: Transferred
 58. moonboot-portugal.com: Transferred
 59. moonboots-belgie.com: Transferred
 60. moonboots-nederland.com: Transferred
 61. moonbootsaustralias.com: Transferred
 62. moonbootsirelands.com: Transferred
 63. moonbootslondon.com: Transferred
 64. moonboots-nyc.com: Transferred
 65. moonboots-nz.com: Transferred
 66. moonbootsottawa.com: Transferred
 67. moonboots-southafrica.com: Transferred
 68. moonboots-usa.com: Transferred
 69. moonboots-chile.com: Transferred
 70. moonboots-deutschland.com: Transferred
 71. moonbootsitaly.com: Transferred
 72. moonbootsmalaysia.com: Transferred
 73. moonboots-mexico.com: Transferred
 74. moonbootsparis.com: Transferred
 75. moonboots-philippines.com: Transferred
 76. moonbootgreeceshop.com: Transferred
 77. moonboots-danmarks.com: Transferred
 78. moonboots-polska.com: Transferred
 79. moonboots-sverige.com: Transferred
 80. moonbootsbelgium.com: Transferred
 81. moonbootsnederlands.com: Transferred
 82. moonboot-norway.com: Transferred
 83. moonboot-sverige.com: Transferred
 84. moonbootssuomi.com: Transferred
 85. moonbootparis.com: Transferred
 86. moonbootsrbija.com: Transferred
 87. moonboot-ireland.com: Transferred
 88. moonbootsgreek.com: Transferred
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PANELLISTS

Name **Alfred Meijboom**

DATE OF PANEL DECISION **2023-10-22**

Publish the Decision
