

Decision for dispute CAC-UDRP-107118

| | |
|----------------|--|
| Case number | CAC-UDRP-107118 |
| Time of filing | 2024-12-04 08:50:18 |
| Domain names | mouboots-nederland.com, moubootsnorge.com |

Case administrator

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

Complainant

| | |
|--------------|--------------------|
| Organization | Mou Limited |
|--------------|--------------------|

Complainant representative

| | |
|--------------|-------------------|
| Organization | Convey srl |
|--------------|-------------------|

Respondents

| | |
|------|---------------------|
| Name | Leahe Becken |
|------|---------------------|

| | |
|------|------------------|
| Name | ming dian |
|------|------------------|

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 registered owner of many trademarks for MOU, e.g. United States trademark registration no. 3663689 MOU (word) registered on August 4, 2009 for goods in class 25; European trademark registration no. 008164204 registered on December 11, 2009 for goods in classes 3, 18 and 25.

FACTUAL BACKGROUND

It results from the Complainant's undisputed allegations that it was founded in London in 2002 and now it is the internationally recognized brand for premium, handcrafted shoes and accessories in luxurious natural fibres. Complainant's products are sold online and via selected boutiques and department stores worldwide.

The Complainant further contends its trademark MOU be distinctive and well-known.

Furthermore, the Complainant use the domain names <mou.com> (registered on May 22, 1998), <mou-online.com> (registered on January 26, 2006), <mou-online.cn> and <mou-online.com.cn> to connect to its official website for advertising and commercializing its products.

The disputed domain names <mouboots-nederland.com> and <moubootsnorge.com> were both registered on May 22, 2024.

Furthermore, the undisputed evidence provided by the Complainant proves that the disputed domain names resolve to websites purportedly offering for sale products under the Complainant's trademarks, displaying without authorization the Complainant's trademark and logo.

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 Response has 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.

According to the information provided by the Registrars upon the Request for Registrar Verification sent by Online ADR Center of the Czech Arbitration Court, the disputed domain names are registered by different Registrants (Respondents): (i.e. Leahe Becken (GERMANY) is the Registrant of <mouboots-nederland.com>; ming dian (CHINA) is the Registrant of <moubootsnorge.com>.

In its Amended Complaint the Complainant requests the Panel to consolidate the cases.

Under Paragraph 10(e) of the Rules for Uniform Domain Name Dispute Resolution Policy (the Rules) "A Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules".

In the Panel's view the Complainant submitted sufficient evidence to justify the consolidation in terms of common control of the domain names or corresponding websites and fairness and equitableness of the consolidation to all parties.

As specified in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Jurisprudential Overview 3.0") at point 4.11.2 "Panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in or relevant aspects of (i) the registrants' identity(ies) including pseudonyms, (ii) the registrants' contact information including email address(es), postal address(es), or **phone number(s)**, including any pattern of irregularities, (iii) relevant IP addresses, name servers, or webhost(s), (iv) **the content or layout of websites corresponding to the disputed domain names**, (v) the nature of the marks at issue (e.g., where a registrant targets a specific sector), (vi) any **naming patterns** in the disputed domain names (e.g., <mark-country> or <mark-goods>), (vii) the relevant language/scripts of the disputed domain names particularly where they are the same as the mark(s) at issue, (viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s), (ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s), (x) any (prior) pattern of similar respondent behaviour, or (xi) other arguments made by the complainant and/or disclosures by the respondent(s).

The Panel considers the consolidation as appropriate, taking into consideration, in particular, the layout and content of the websites corresponding to the disputed domain names and the naming pattern. In particular, all the disputed domain names resolve to websites that have the same layout, i.e. webshops allegedly advertising Complainant's MOU products, all displaying the Complainant's

trademark MOU in the middle of the headers, the black banner in the header relating to special conditions and the icons related to women, men and children (in the different corresponding language). In addition, there are similarities in the naming patterns in the disputed domain names, e.g. all disputed domain names contain the Complainant's trademark MOU, the descriptive term BOOTS referring to the same Complainant's business/sector and a geographical term (i.e. Norge is the Norwegian name for Norway and Nederland is the Dutch name for The Netherlands). Furthermore, the Registrant Fax Number of the disputed domain name <moubootsnorge.com> is identical to the Registrant Phone Number and Registrant Fax Number of the disputed domain name <mouboots-nederland.com>. Both disputed domain names were registered in the same date, i.e. May 22, 2024 and share the same Registrar, i.e. Dynadot Inc.

Thus, the layout and content of the websites corresponding to the disputed domain names and the naming patterns in the disputed domain names give evidence of a common control of the domain names at issue.

On the balance of probabilities and taking into account the above circumstances of the present case, the Panel finds that the disputed domain names are under common control. The Panel is also satisfied that consolidation of these disputes is fair and equitable to all parties, and that they should be consolidated in the interest of procedural efficiency (s. *Pandora A/S v. Larry Sack, Alice Ferri, marino blasi, Sirkin Mösening, Meghan Pier, Monica Lugo, Tom Fargen*, CAC Case No. 103259).

Furthermore, the Respondent has not contested or provided any rebuttal regarding the consolidation request made by the Complainant. Therefore, the Panel finds that consolidation would be fair and equitable.

PRINCIPAL REASONS FOR THE DECISION

1. Pursuant to paragraph 4(a)(i) of the Policy, the complainant must establish rights in a trademark or service mark, and that the disputed domain name is identical or confusingly similar to a trademark in which the complainant has rights.

It results from the evidence provided, that the Complainant is the registered owner of various MOU trademarks.

Prior UDRP panels have found that a disputed domain name is confusingly similar to a complainant's trademark where the disputed domain name incorporates the complainant's trademark in its entirety (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0") at section 1.7. This Panel shares this view and notes that the Complainant's registered trademark MOU is fully included in the disputed domain names.

Furthermore, it is the view of this Panel that the addition of the additional terms in the disputed domain names at issue cannot prevent a finding of confusing similarity between the disputed domain names and the Complainant's trademark since the Complainant's trademark is clearly recognizable in the disputed domain names (see WIPO Overview 3.0 at section 1.8).

Finally, the generic Top-Level Domain ("gTLD") ".com" of the disputed domain names is typically disregarded under the first element confusing similarity test (see WIPO Overview 3.0 at section 1.11.1).

In the light of the above, the Panel finds that the disputed domain names are confusingly similar to a trademark in which the Complainants have rights.

2. Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the panel to be proved, shall demonstrate the respondent's rights or legitimate interests to the disputed domain name.

In the Panel's view, based on the undisputed allegations stated above, the Complainant has made a prima facie case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain names.

According to the Complaint, which has remained unchallenged, the Complainant has no relationship in any way with the Respondents and did, in particular, not authorize the Respondents' use of the Complainant's trademark MOU, e.g. by registering the disputed domain names comprising said trademark entirely.

Furthermore, the Panel notes that there is no evidence showing that the Respondents might be commonly known by the disputed domain names in the sense of paragraph 4(c)(ii) of the Policy.

Moreover, the nature of the disputed domain names carries a risk of implied affiliation, since all the disputed domain names contains the Complainant's trademark MOU (plus the descriptive term BOOTS referring to the same Complainant's business/sector) and plus a geographical term (i.e. Norge is the Norwegian name for Norway and Nederland is the Dutch name for The Netherlands). Geographical terms are seen as tending to suggest sponsorship or endorsement by the trademark owner, see WIPO Overview 3.0 at section 2.5.1.

It is acknowledged that once the Panel finds a prima facie case is made by a complainant, the burden of production under the second element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name (see WIPO Overview 3.0 at section 2.1). Since the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds, in the circumstances of this case, that the Respondents have no rights or legitimate interests in the disputed domain names.

The Panel finds that the Complainant has therefore satisfied paragraph 4(a)(ii) of the Policy.

3. According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, “in particular but without limitation”, be evidence of the disputed domain name’s registration and use in bad faith. One of these circumstances is that the Respondent by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy).

It is the view of this Panel that these circumstances are met in the case at hand.

It results from the Complainant’s documented allegations that the disputed domain names resolved to websites allegedly offering for sale Complainant’s goods and reproducing without any authorization the Complainant’s trademark and logo. For the Panel, it is therefore evident that the Respondent knew the Complainant’s mark when it registered the disputed domain names. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent knew that the disputed domain names included the Complainant’s trademark when it registered the disputed domain names. This is underlined by the fact that the disputed domain names are clearly constituted by the Complainant’s registered trademark MOU plus the descriptive term BOOTS referring to the Complainant’s business and plus the geographic terms.

Finally, the further circumstances surrounding the disputed domain names’ registration and use confirm the findings that the Respondents have registered and are using the disputed domain names in bad faith (see WIPO Overview 3.0 at section 3.2.1):

- (i) the nature of the disputed domain names (*i.e.*, incorporating the Complainant’s mark plus geographical terms plus the addition of term which is related to the Complainant’s business activity);
- (ii) the content of the websites to which the disputed domain names direct (allegedly advertising and selling Complainant’s goods);
- (iii) a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondents choice of the disputed domain names;
- (iv) the respondents concealing their identity;

In light of the above the Panel finds that the disputed domain names have been registered and are being used in bad faith pursuant to 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. **mouboots-nederland.com**: Transferred
2. **moubootsnorge.com**: Transferred

PANELLISTS

| | |
|------|---|
| Name | Dr. Federica Togo (Presiding Panelist) |
|------|---|

DATE OF PANEL DECISION 2025-01-17

Publish the Decision
