Decision for dispute CAC-UDRP-107159

Case number	CAC-UDRP-107159
Time of filing	2024-12-13 10:27:00
Domain names	eccoireland-ie.com, ecconederland-nl.com, eccoportugal-pt.com, eccoromania-ro.com, eccojapan-jp.com, eccobelgie-be.com, eccochile-cl.com, eccophilippines-ph.com, eccopolska-pl.com, eccoturkey-tr.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	ECCO Sko A/S

Complainant representative

Organization	Convey srl

Respondents

Organization	Whoisprotection.cc
Name	Lydia Wallis
Name	Niamh Power
Name	Lola Bryant
Name	Gabriel Hunter
Name	Ryan Sanderson
Name	Jessica Kelly
Name	Lucas West
Name	Lucas Giles
Name	Amelia Moore

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 .

PRELIMINARY ISSUE:

According to the Rules for Uniform Domain Name Dispute Resolution Policy, a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder.

In this case, the complaint relates to ten domain names, <eccoireland-ie.com>, <ecconederland-nl.com>, <eccoportugal-pt.com>, <eccoromania-ro.com>, <eccojapan-jp.com>, <eccobelgie-be.com>, <eccochile-cl.com>, <eccophilippines-ph.com>, <eccopolska-pl.com> and <eccoturkey-tr.com>, and although they seem to have different registrants, considering the information received from the registrar of these domain names, the Disputed Domain Names resolve to similar websites, including but not limited having a similar layout, use of the ECCO trademark of the Complainant, sell of goods bearing the Complainant's marks, the products being sold disproportionately below market value, all of Disputed Domain Names being registered the same day, 29 June 2024, having the same registrar and the same hosting provider.

The Panel agrees that either the registrant of the Disputed Domains Names is the same person and/or entity, or at the very least all ten of them are under the common control of the same person and thus, the complaint is receivable as a single one for all ten Disputes Domain Names.

IDENTIFICATION OF RIGHTS

The Complainant bases its Complaint on the following ECCO trademarks:

- the International trademark registration "ECCO", no. 686104, registered on 26 January 1998, for goods in class 25;
- the European Union trademark "ECCO", no. 002967040, filed on 10 December 2002, registered on 02 May 2007, for goods and services in classes 3, 9, 14, 18, 24, 25, 28, 35, 36, 41 ;
- the national Malaysia trademark "ECCO", no. 84000684, registered on 11 September 1991, for goods in class 25.

FACTUAL BACKGROUND

The Complainant is a Danish shoe and leather accessories manufacturer founded in 1963, who opened its first retail store in Denmark in 1982. The Complainant is family-owned and employs 21,300 people worldwide, with product sales in 101 countries from over 2,250 shops and more than 14,000 sales points, having operations in Asia, Eastern and Central Europe, Canada, South America, and the United States. Throughout the 1980s, the company expanded its operations internationally. By 1982, sales reached 1 million pairs of shoes annually. In order to accommodate the increasing demand, additional production was established in Portugal, and under license in Japan and Cyprus. The Complainant built its own research and design center, named "Futura", in Denmark in 1996, and since 2009, Portugal is the R&D center of the Complainant and also such has opened its own beam house in Indonesia as well as a tannery in Thailand a few years later. In 1998 the first flagship retail store opened on Oxford Street, in London. By 2000, the Complainant owned every step of the production process, from design and leather production to branded retail sales. The Complainant owns tanneries in the Netherlands, Thailand, Indonesia and China. Approximately 98% of the Complainant's shoes are produced in its own shoe factories in Portugal, Slovakia, Thailand, Indonesia, Vietnam and China, and some under license in India.

The Complainant owns ECCO trademarks, as cited above.

In addition, the Complainant owns domain names consisting in the wording "ECCO", such as <ecco.com> and <ecco.eu>.

All ten Disputed Domain Names <eccoireland-ie.com>, <ecconederland-nl.com>, <eccoportugal-pt.com>, <eccoromania-ro.com>, <eccojapan-jp.com>, <eccobelgie-be.com>, <eccochile-cl.com>, <eccophilippines-ph.com>, <eccopolska-pl.com> and <eccoturkey-tr.com> were all registered on 29 June 2024. All ten Disputed Domain Names resolve to similar websites, including but not limited to having a similar layout, use of the ECCO trademark of the Complainant, selling of goods bearing the Complainant's marks, the products being sold disproportionately below market value, all of Disputed Domain Names having the same registrar and the same hosting provider.

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.

The Complainant's contentions are the following:

The Disputed Domain Names are confusingly similar to the Complainant's earlier trademarks ECCO, that the Respondent lacks rights or legitimate interests in the Disputed Domain Names for a number of reasons and that the disputed domain names were registered and are being used in bad faith.

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 Respondents 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.

PRINCIPAL REASONS FOR THE DECISION

1. Confusing Similarity

The Panel agrees that all ten Disputed Domain Names <eccoireland-ie.com>, <ecconederland-nl.com>, <eccoportugal-pt.com>, <eccoromania-ro.com>, <eccojapan-jp.com>, <eccobelgie-be.com>, <eccochile-cl.com>, <eccophilippines-ph.com>, <eccopolska-pl.com> and <eccoturkey-tr.com> are confusingly similar to the Complainant's earlier trademark ECCO. The Disputed Domain Names incorporate entirely the Complainant's earlier ECCO trademark and the addition of the geographical terms "Ireland", "Nederland", "Portugal", "Romania", "Japan", "Belgie", "Chile", "Philippines", "Polska", "Turkey", as well as what appears to be country codes "ie", "nl", "pt", "ro", "jp", "be", "cl", "ph", "pl", "tr" which are closely related to the business activities carried under the trademark ECCO, namely commercialization of the Complainant's ECCO products in different countries, is not sufficient to escape the finding that the Disputed Domain Names are confusingly similar to the Complainant's trademark and it does not change the overall impression of the designations as being connected to the trademark ECCO.

Moreover, the extension ".com" is not to be taken into consideration when examining the similarity between the Complainant's trademarks and the Disputed Domain Names (WIPO Case No. D2005-0016, Accor v. Noldc Inc.). The mere adjunction of a gTLD such as ".com" is irrelevant as it is well established that the generic Top Level Domain is insufficient to avoid a finding of confusing similarity (WIPO Case No. 2013-0820, L'Oréal v Tina Smith, WIPO Case No. D2008-0820 Titoni AG v Runxin Wang and WIPO Case No. D2009-0877, Alstom v. Itete Peru S.A.).

Therefore, the Panel is satisfied that the first condition under the Policy is met.

2. Lack of Respondent's rights or legitimate interests

The complainant is required to make out a prima facie case that the respondent lacks/respondent lack rights or legitimate interests. Once such prima facie case is made, the burden of proof shifts to the respondent(s) to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the disputed domain names. If the respondent fails/respondent fail to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy.

Based on the available evidence, the Respondent(s) does/do not appear to be known by the disputed domain names as such is/are not identified in the WHOIS database as the Disputed Domain Names.

Moreover, the Respondent is / Respondents are not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent(s).

No license nor authorization has been granted by the Complainant to the Respondent(s) to make any use of the Complainant's trademark ECCO, or to apply for registration of the Disputed Domain Names .

The websites corresponding to the Disputed Domain Names use the ECCO trademark of the Complainant without authorization from the Complainant, and sell goods bearing the Complainant's marks, at prices disproportionately below market value, without any disclaimer as to the lack of relationship with the Complainant.

The Respondent(s) had an opportunity to comment on the Complaint's allegations by filing a Response, which the Respondent(s) failed to do.

Thus, the Panel is satisfied that the Complainant has at least established a prima facie case that the Respondent lacks / the Respondents lack rights or legitimate interests in the Disputed Domain Names .

Accordingly, the Panel takes the view that also the second requirement under the Policy is met.

3. Bad Faith

Based on the available evidence, the Complainant's trademark ECCO predate the registration date of the Disputed Domain Names . Thus, the Respondent has / the Respondents have chosen to register the Disputed Domain Names in order to create a confusion with such trademark.

Therefore, the Panel concludes that at the time of registration of the Disputed Domain Names , the Respondent was / the Respondents were well aware of the Complainant's earlier ECCO trademark and has / have intentionally registered the Disputed Domain Names in order to create confusion with such trademark.

In the present case, the following factors should be considered:

- the Complainant's ECCO trademarks predate the registration date of the Disputed Domain Names ;
- the Respondent(s) registered the Disputed Domain Names which include in its entirety the Complainant's earlier trademark ECCO followed by geographical terms and country codes which are closely related to the business activities carried under the

trademark ECCO, namely commercialization of the Complainant's ECCO products in different countries;
- the Respondent has / the Respondents have no business relationship with the Complainant, nor was / were ever authorised to use a domain name similar to the Complainant's trademark;
- all ten websites corresponding to the ten Disputed Domain Names use the ECCO trademark of the Complainant without authorization from the Complainant, and sell goods bearing the Complainant's marks, at prices disproportionately below market value, without any disclaimer warning users that the Respondent is / Respondents are not affiliated with the Complainant in any way;

- the Respondent(s) failed to submit any response and has / have not provided any evidence of actual or contemplated good faith use of the Disputed Domain Names .

In light of the foregoing, the Panel concludes that the Respondent has / the Respondents have registered and has / have been using the Disputed Domain Names in bad faith. Thus, also the third and last condition under the Policy is satisfied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **eccoireland-ie.com**: Transferred
2. **ecconederland-nl.com**: Transferred
3. **eccoportugal-pt.com**: Transferred
4. **eccoromania-ro.com**: Transferred
5. **eccojapan-jp.com**: Transferred
6. **eccobelgie-be.com**: Transferred
7. **eccochile-cl.com**: Transferred
8. **eccophilippines-ph.com**: Transferred
9. **eccopolska-pl.com**: Transferred
10. **eccoturkey-tr.com**: Transferred

PANELLISTS

Name	**Delia-Mihaela Belciu**

DATE OF PANEL DECISION 2025-01-24

Publish the Decision