

ADMINISTRATIVE PANEL DECISION

Flisch Holding S.A. v. Eve Douglas, Luke Butcher, Thomas Leach, Lola Curtis, Harley Thornton
Case No. D2024-1349

1. The Parties

The Complainant is Flisch Holding S.A., Switzerland, represented by SafeBrands, France.

The Respondent is Eve Douglas, Luke Butcher, Thomas Leach, Lola Curtis, Harley Thornton, Germany.

2. The Domain Names and Registrar

The disputed domain names <felcoargentina.com>, <felcoaustralia.com>, <felcoaustralia.com>, <felcobelgique.com>, <felcobelgium.com>, <felcobrasil.com>, <felcobulgaria.com>, <felcocanada.com>, <felcochile.com>, <felcocolombia.com>, <felcocz.com>, <felcodanmark.com>, <felcodeutschland.com>, <felcoeesti.com>, <felcofrance.com>, <felcogreece.com>, <felcohrvatska.com>, <felcohungary.com>, <felcoireland.com>, <felcoisrael.com>, <felcoitalia.com>, <felcojapan.com>, <felcokuwait.com>, <felcolatvija.com>, <felcolietuva.com>, <felcomexico.com>, <felconederland.com>, <felconorge.com>, <felconz.com>, <felcoperu.com>, <felcopolska.com>, <felcoportugal.com>, <felcoromania.com>, <felcoschweiz.com>, <felcoslovenija.com>, <felcoslovensko.com>, <felcosouthafrica.com>, <felcospain.com>, <felcosrbija.com>, <felcosuisse.com>, <felcosuomi.com>, <felcosverige.com>, <felcoturkey.com>, <felcouae.com>, and <felcouruguay.com> are registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 28, 2024. On April 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 7, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Hanover) and contact information in the Complaint.

The Center sent an email communication to the Complainant on April 8, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on April 11, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 2, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 3, 2024.

The Center appointed Knud Wallberg as the sole panelist in this matter on May 7, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

For over 75 years the Complainant has manufactured and sold professional pruning shears and cable shears. The Complainant employs over 320 people worldwide and 90% of its tools are exported to over 100 countries, through its seven distribution subsidiaries in France, Germany, Benelux, Poland, South Africa, Canada, and United States of America and through its large network of importers and authorized distributors.

The Complainant holds various registrations of the trademark FELCO including the following: International Registration No. 204598 for FELCO, registered on November 4, 1957, for goods in class 8; European Union Registration No. 000163261, registered on November 13, 1998, for goods and services in classes 8 and 37; and International Registration No. 1506124, registered on July 8, 2019 for goods and services in classes 4, 6, 7, 8, 9, 20, 25, 35, 37, 38, 42 and 44.

The Complainant is also the owner of numerous domain names composed of the sign “felco” alone or combined with another elements, including <felco.com>.

The disputed domain names were all registered on November 22, 2023, and at the time of filing of the Complaint they all pointed to active websites, that purported to be the Complainant’s local website allegedly offering for sale the Complainant’s products, in the country in question.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to the Complainant’s registered trademark FELCO, since they all contain the exact trademark with the mere addition of a geographical term, and the generic Top-Level Domain (“gTLD”) “.com”

Furthermore, none of the Respondents have rights or legitimate interests in the disputed domain names for purposes of Paragraph 4(c) of the Policy, as none of them are commonly known by the disputed domain names and as none of the Respondents are authorized or licensed to use the FELCO trademark.

In addition, the disputed domain names resolve to websites that reproduce the Complainant’s trademarks, logo, copyrighted photos, graphic charter in order to sell heavily discounted goods supposedly coming from the Complainant. However, there is no evidence as to whether or not the goods offered for sale/advertised at the disputed domain names are genuine FELCO products and considering the significantly discounted prices, the Complainant suspects the products to be counterfeit.

The Complainant finally contends that the Respondents have registered and are using the disputed domain names in bad faith since the Respondents must have been fully aware of the Complainant's rights in the FELCO trademark, when they registered the disputed domain names, and as the Respondents are passing themselves off as the Complainant to deceive unsuspecting individuals into believing that they are accessing the Complainant's local websites-

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The Complainant thus asserts that all of the disputed domain names are owned by or are under the effective control of a single person or entity, or a group of individuals acting in concert. In support of this assertion, the Complainant underlines the following similarities between disputed domain names:

- All disputed domain names are registered through registrants which are located in "Hanover, DE" with no further precision.
- The email addresses linked to the supposed domain name registrants are all composed in the same way: first name added by the surname, a number and are using the same email service: "@cxtmail.com".
- All disputed domain names have been registered with the same Registrar
- All disputed domain names are pointing to substantially identical websites. All websites reproduce in the same manner the Complainant's graphic charter, trademarks, logos, photos in order to sell suspected counterfeit products;
- The fraudulent websites linked to the disputed domain names are hosted on the servers of one Content delivery network which is Cloudflare as well as the hosting providers Fibergrid and Angelnet;
- All the disputed domain names as well as their websites target the Complainant's unique trademark FELCO;
- All the disputed domain names have been registered in a similar naming pattern, i.e., All disputed domain names are a combination of the Complainant's trademark FELCO and a country targeted by the Respondent.
- Finally, the Complainant takes note that the disputed domain names were registered at the same date: November 22, 2023.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.11.2.

As regards common control, the Panel notes that despite the fact that the disputed domain names are registered by 5 nominally different registrants, the above presented facts clearly support a finding that the disputed domain names and corresponding websites are subject to common control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “the Respondent”) in a single proceeding.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within all the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, the 45 different country names or other terms associated with geographical locations, may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the

Policy or otherwise. Moreover, the Panel finds that the composition of the disputed domain names, further supported by the content therein, effectively impersonate or suggest sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Given the circumstances of the case, including the evidence on record of the use of the Complainant's trademark FELCO, and the distinctive nature of this mark, it is inconceivable to the Panel in the current circumstances that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark.

The Panel therefore finds that the disputed domain names were registered in bad faith.

The disputed domain names have all been used to host websites, which clearly gave the Internet users the impression that the website was a website of the Complainant or a website that was somehow connected to the Complainant, which was not the case. The Panel therefore finds that there can be no doubt that the disputed domain names have been used in bad faith to intentionally attempt "to attract, for commercial gain, Internet users to the Respondent's 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 the Respondent's website". Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

Noting that the disputed domain names incorporate the Complainant's well-known trademark FELCO; that the Respondent has not replied to the Complainant's contentions; and that there appears to be no conceivable good faith use that could be made by the Respondent of the disputed domain names and considering all the facts and evidence of the case, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are also fulfilled in this case.

The Panel thus finds that the Complainant has also established the third element of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain names <felcoargentina.com>, <felcoaustralia.com> <felcoaustralia.com>, <felcobelgique.com>, <felcobelgium.com>, <felcobrasil.com>, <felcobulgaria.com>, <felcocanada.com>, <felcochile.com>, <felcocolombia.com>, <felcocz.com>, <felcodanmark.com>, <felcodeutschland.com>, <felcoeesti.com>, <felcofrance.com>, <felcogreece.com>, <felcohrvatska.com>, <felcohungary.com>, <felcoireland.com>, <felcoisrael.com>, <felcoitalia.com>, <felcojapan.com>, <felcokuwait.com>, <felcolatvija.com>, <felcolietuva.com>, <felcomexico.com>, <felconederland.com>, <felconorge.com>, <felconz.com>, <felcoperu.com>, <felcopolska.com>, <felcoportugal.com>, <felcoromania.com>, <felcoschweiz.com>, <felcoslovenija.com>, <felcoslovensko.com>, <felcosouthafrica.com>, <felcospain.com>, <felcosrbija.com>, <felcosuisse.com>, <felcosuomi.com>, <felcosverige.com>, <felcoturkey.com>, <felcouae.com>, and <felcouruguay.com> be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: May 30, 2024