

ADMINISTRATIVE PANEL DECISION

Ellos AB v. BergeronRichard
Case No. D2024-4125

1. The Parties

The Complainant is Ellos AB, Sweden, represented by Zacco Sweden AB, Sweden.

The Respondent is BergeronRichard, United States of America.

2. The Domain Name and Registrar

The disputed domain name <ellosbestdeals.shop> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 8, 2024. On October 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 9, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 10, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on October 10, 2024.

The Center verified that the Complaint together with the amendment to the 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 October 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 12, 2024.

The Center appointed Miguel B. O'Farrell as the sole panelist in this matter on November 18, 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

The Complainant, Ellos AB, is part of Ellos Group AB, a well-renowned company group founded in 1947 as a manufacturing and commerce business. Today Ellos Group is a leading shopping destination for fashion and home furnishings in the Nordic regions and in many others, including the United States of America. The Complainant owns numerous trademark registrations for ELLOS in several jurisdictions, including the following.

International Trademark Registration No.1522478 ELLOS, registered on December 11, 2019, in classes 03, 09, 11, 14, 16, 18, 20, 25, 26, 27, 35, and 36.

European Union Trademark Registration No. 006022669 ELLOS, registered on September 2, 2008, in classes 02, 03, 05, 07, 08, 09, 11, 14, 18, 20, 21, 24, 28, and 35.

United States of America Trademark Registration No. 3,822.643 ELLOS, registered on July 20, 2010, in classes 25 and 35.

The Complainant also owns several domain names that incorporate ELLOS, such as <ellos.com> and <ellos.shop>, among others including numerous country code Top-Level Domains.

The disputed domain name was registered on September 10, 2024 and resolves to a website showing the ELLOS trademark and offering goods similar to those offered by the Complainant.

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 name.

Notably, the Complainant contends that the Ellos Group employs around 550 employees, and its annual sales amounts to approximately SEK 3,4 billion.

The fact that the website connected to the disputed domain name refers specifically to the Complainant and its brand, products and services, makes it obvious that the Respondent was fully aware of the Complainant and the Complainant's trademark at the time of registration of the disputed domain name.

The Complainant can only presume that the Respondent's purpose with its website to which the disputed domain name resolves is to intentionally create the false impression that the website is affiliated with or operated by the Complainant, for illicit and fraudulent purposes.

The Complainant sent a cease and desist letter to the Respondent on September 17, 2024, which has remained unanswered.

The Complainant requests the Panel to issue decision ordering that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[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 mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is 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, "best deals" may bear on assessment of the second and third elements, the Panel finds the addition of such terms do not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The ".shop" gTLD is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

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 name. 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 name such as those enumerated in the Policy or otherwise.

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.

The Panel is satisfied that the Respondent must have been aware of the Complainant's trademark ELLOS mentioned in section 4 above (Factual Background) when it registered the disputed domain name on September 10, 2024. By that time, the Complainant had registered and widely used the trademark including in the United States of America, where the Respondent seems to be located.

The Panel also finds that by registering the disputed domain name which includes the Complainant's trademark ELLOS in its entirety the Respondent was targeting the Complainant and its business. The addition of the descriptive terms "best deals" only contributes to confuse Internet users and leads them to think that the Respondent's website belongs to or is endorsed by the Complainant, with the intention to capitalize on the fame of the Complainant's trademark for its own benefit.

Further, the fact that there is a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name, the nature of the disputed domain name, and the use of the disputed domain name to resolve to a website that shows the trademark ELLOS with content and images taken from the Complainant's website and offering goods similar to those offered by the Complainant, the Respondent's failure to respond to the Complainant's cease-and-desist letter of September 17, 2024, the use of a privacy shield to hide the registrant's identity, and the failure to file a response to the Complaint are indicative of bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)).

The Panel finds that the Respondent registered and is using the disputed domain name in bad faith.

The Panel finds that the Complainant has 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 name <ellosbestdeals.shop> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: December 2, 2024