



Asian Domain Name Dispute Resolution Centre

hongkong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2201602
Complainant:	Ecovacs Robotics Limited
Respondent:	Turcglobal Dan. ve Dis Tic Ltd. ST
Disputed Domain Name(s):	<ecovacsturkiye.com>

1. The Parties and Contested Domain Name

The Complainant is Ecovacs Robotics Limited, of 108 Shihu West Rd, Wuzhong District Suzhou City, Jiangsu Province, People's Republic of China (PRC). The authorized representative of the complainant is Beijing Chofn Intellectual Property Agency Co., Ltd., of 1217 12th Floor, No.68 West Road of North Fourth Ring, Haidian, Beijing 100081, PRC.

The Respondent is Turcglobal Dan. ve Dis Tic Ltd. ST, of Topcular Mahallesi, Osmangazi Caddesi, Axis Istanbul B2 Blok No:65, Istanbul, Turkey.

The domain name at issue is <ecovacsturkiye.com>, registered by Respondent with Tucows Domains Inc., of 96 Mowat Avenue, Toronto, ON M6K 3M1, Canada.

2. Procedural History

On March 7, 2022, the Complainant submitted the Complaint on domain name <ecovacsturkiye.com> (the "disputed domain name") to the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (the "Centre"), in accordance with the Uniform Domain Name Dispute Resolution Policy (the "Policy") adopted by the Internet Corporation for Assigned Names and Numbers (ICANN) on August 26, 1999, the Rules for Uniform Domain Name Dispute Resolution Policy Disputes (the "Rules") approved by ICANN on September 28, 2013, and the Asian Domain Name Dispute Resolution Centre Supplemental Rules (the "Supplemental Rules") in effect as of July 31, 2015. By email message dated March 9, 2022, the Center confirmed the receipt of the Complaint.

After receiving the Complaint, the Centre, in accordance with the Supplemental Rules, verified that the Complaint complied with the formal requirements of the Rules and the Supplemental Rules. In that regard, on March 9, 2022, the Centre requested the Registrar to confirm: (1) that the disputed domain name was registered with the Registrar, (2) whether the Respondent is the registrant or holder of the name, and (3) whether the Policy applies to the name; and to specify: (4) the language of the Registration Agreement of the

disputed domain name, (5) the disputed domain name's registration date and expiration date, (6) the confirmation that the disputed domain name has been locked and will not be transferred to another holder or registrar during the current administrative proceeding or for a period of 15 business days after the proceeding is concluded in accordance with Paragraph 8 of the Policy, and (7) the WHOIS information for the disputed domain name.

On March 10, 2022, the Registrar provided its response to the Centre through which it confirmed that: (1) the disputed domain name was registered with Tucows Domains Inc., (2) the information of the Respondent in the Complaint is different from the WHOIS information provided by the Registrar, and (3) the Policy applies to the name. The Registrar also stated that (4) the registration agreement is in the English language, (5) provided name and contact information pertinent to the name as reflected in its WHOIS database, and stated that (6) the domain name is currently locked and is not allowed to transfer pending the initiated proceedings. On March 10, 2022, in accordance with Article 4 of the Rules, the Centre requested the Complainant to update the information of the Respondent in the Complaint Form with reference to the WHOIS information provided by the Registrar.

On March 14, 2022, the Complainant submitted the revised Complaint on domain name <ecovacsturkiye.com> to the Centre, in accordance with the Policy, the Rules and the Supplemental Rules. By email message dated March 10, 2022, the Center confirmed the receipt of the Complaint, together with Annexures 1 to 12. The Complainant requested a single person panel.

On March 15, 2022, the Centre sent the Complaint to the Respondent. The Respondent was then provided with a 20-calendar day period, expiring on April 4, 2022, to file its Response both with the Centre and the Complainant. On April 4, 2022, the Centre received a Response from the Respondent in respect of the Complaint concerning the domain name <ecovacsturkiye.com> within the required time.

Pursuant to the Rules and the Supplemental Rules, the Centre, by email dated April 8, 2022, contacted the undersigned, Ms. Shirley Lin, requesting her service as a Sole Panelist for this dispute. On April 9, 2022, Ms. Shirley Lin responded and affirmed her ability to act completely independently and impartially in this matter. Subsequently, the Centre, through an email dated April 10, 2022, notified the Parties of the appointment of Ms. Shirley Lin as the Sole Panelist. On April 20, 2022, the Complainant submitted two extra documents to the Panelist, the Centre and the Respondent as supplementary evidence. However, given the fairness and efficiency of the procedure, the Panel decided not to accept the Complaint's delayed submission. Based on the deadline set forth in paragraph 15 of the Rules, a decision was to be issued by the Panel to the Center on or before April 24, 2022.

3. Factual background

The Complainant: Ecovacs Robotics Limited

A. The Complainant and its activities

Ecovacs Robotics Limited was established in 1998. It is one of the world's largest manufacturers of cleaning appliances, mainly dedicated to the development, manufacture

and sales of home service robots. Ecovacs Robotics is developing a complete line of home service robots and is among the global leading firms in the home service robot industry, as well as the industry standard setter.

B. The Complainant's "ECOVACS" Marks

The Complainant and its related companies enjoy prior trade name rights, prior trademark rights, and prior domain name rights and other related rights in respect of marks "ECOVACS". The Complainant's "ECOVACS" brand has a large market share in the global cleaning robot market. Through the five-year layout of the international market, Complainant has established European branch and American branch, and successfully explored the markets of more than 60 countries and regions, such as Japan, Spain, Switzerland, France, Canada, Czech Republic, Poland, Germany, Iran and Malaysia. The Complainant has built a distribution and service network covering major large and medium-sized cities in China through comprehensive offline and online development, and as of March 2018, the Complainant's sales area covers 167 cities in China, with a total of 820 physical stores within China. And for the online sales area, the Complainant mainly through Tmall, Jingdong, Suning Tesco, Amazon and other major mainstream e-commerce platforms for unspecified groups of product output. Moreover, the Complainant has established a global business network covering major markets around the world with the United States, Germany and Japan as the core, built a robust online and offline sales channel, and through continuous brand investment has gained wide consumer recognition. By 2020, "ECOVACS" brand revenue from overseas markets accounted for 30.44% of revenue, annual revenue of 7.234 billion RMB, up 36.17% year-on-year. In particular, as early as 2020, the Complainant's goods have already entered Turkiye (or "Turkey" in English) through platforms such as Amazon.

The Respondent

The Response from the Respondent in respect of the Complaint concerning the domain name <ecovacsturkiye.com> does not provide any information as for the legal status and place of incorporation of the Respondent. There is no indication as for the nature and size of the business operated by the Respondent.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

i. Identical or Confusingly Similar

The Complainant has registered numerous trademarks comprising the "ECOVACS" Trademarks to protect its interests around the world. The Complainant accordingly submits that it has proved that the disputed domain name is identical and/or confusingly similar to its registered trademarks in which the Complainant has rights or interests for the purposes of paragraph 4(a)(i) of the Policy.

ii. Rights or Legitimate Interests

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraphs 4(a) (ii) and 4(c) of the Policy.

There is no evidence indicating that the Respondent enjoys any prior legal rights or legitimate interests in respect of the domain name in dispute. Firstly, the domain name in dispute was registered on October 29, 2020, which is much later than the time of the Complainant's and its related companies' earliest use and registration of the "ECOVACS" trademark.

iii. Registered and Used in Bad Faith

The Complainant contends that the Respondent registered and is now using the disputed domain name in bad faith under paragraph 4(a)(iii) of the Policy.

First, the disputed domain name does not reflect or correspond to the Respondent's own name. Second, due to the confusing similarity between the disputed domain name and the "ECOVACS" trademarks, and the fact that the Respondent had to have been aware of the Complainant and its "ECOVACS" trademarks, it is inconceivable that the Respondent registered the disputed domain name for any reason other than in bad faith.

B. Respondent

The Response from the Respondent in respect of the Complaint concerning the domain name <ecovacsturkiye.com> is articulated around three main contentions. Firstly, the disputed domain name was registered and assigned to the Respondent. Nevertheless, the Respondent does not dispute that the domain name is identical or confusingly similar to a trademark in which Complainant has rights. Secondly, it is contended that the Respondent submits that consumers cannot mistake <ecovacsturkiye.com> for <ecovacs.com> because <ecovacsturkiye.com> is located in a different domain zone (other than .com). Thirdly, the Respondent contends that it had been only selling original products and providing a free two-year guarantee and ten years stock availability of required spare parts to their customers as per the Turkish consumer rights law. The Respondent had never sold any counterfeit products rather than the original "ECOVACS" brand.

5. Findings

In order to succeed on its Complaint, Complainant must demonstrate that the three elements set forth in paragraph 4(a) of the Policy have been satisfied. These elements are that: (i) the Domain Name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights; (ii) Respondent has no rights to or legitimate interests in respect of the Domain Name; and (iii) Respondent has registered and is using the Domain Name in bad faith.

i) Identical / Confusingly Similar

The Panel finds that the disputed domain name is confusing similar to the Complainant's "ECOVACS" marks. The disputed domain name <ecovacsturkiye.com> incorporates the Complainant's "ECOVACS" mark in its entirety. From a simple comparison of the name and the mark, no doubt exists that the disputed domain name is, for all practical purposes,

identical to the Complainant's mark "ECOVACS". Moreover, the disputed domain name "ecovacsturkiye.com" removes the suffix ".com", and the remaining part is "ecovacsturkiye". The English word "Turkiye" is the name of the country of Turkey that lacks significance, and this word is a commonly used word, which is not compared with the trademark in this case to determine confusion.

Therefore, the Panel finds that the disputed domain name <ecovacsturkiye.com> is, for all practical purposes, identical to the mark "ECOVACS", which forms one of the Complainant's "ECOVACS" marks, so as to cause confusion; hence, the Complainant has satisfied its burden under paragraph 4(a)(i) of the Policy.

ii) Rights and Legitimate Interests

Based on the evidence of record here, the Panel finds that no basis exists which, under the circumstances here, would legitimize a claim to the disputed domain name under paragraph 4(c) of the Policy. The "ECOVACS" trademark is inherently distinctive and also given its extensive use by the Complainant since its establishment in 2018. As a matter of fact, "ECOVACS" trademark is immediately recognisable to consumers as being associated with the Complainant, its business and its products.

Furthermore, there is evidence that the Complainant has never directly or indirectly authorized the Respondent to use the trademark "ECOVACS" and the corresponding domain names in any form, and there is no justification or apparent need for the Respondent to use "ECOVACS" in the disputed domain name.

Finally, even if the Respondent intends to use the disputed domain name (which is denied) and provides evidence to show that it is making demonstrable preparations for use, any such use can never amount to a bona fide offering of goods or services or a legitimate non-commercial or fair use of the disputed domain name. This is because the disputed domain name is identical to the Complainant's well-known "ECOVACS" trademark, a unique word coined by the Complainant and used exclusively by them and will inevitably mislead users into believing that the disputed domain name is associated with the Complainant and may divert users to the disputed domain name, enabling the Respondent to make an unfair commercial gain. In *Microchip Technology, Inc. v. Milos Krejcik and EDI Corporation, d/b/a Aprilog.com* (WIPO Case No. D2001-0337), the panel held that although the respondent had been offering legitimate goods for sale prior to any notice of dispute, as the respondent used the domain name to resolve to a website where users were likely to be confused as to whether the site was affiliated with the complainant, the respondent could not be bona fide and did not have legitimate rights or interests in the domain name.

Accordingly, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain name within paragraph 4(a) (ii) and 4(c) of the Policy.

iii) Bad Faith

After a careful examination of the four, non-exclusive examples enumerated in paragraph 4 (b) of the UDRP, the Panel ultimately found, that, based on the available facts and circumstances, the registration and use of the disputed domain name could be said to have been made in bad faith.

The Respondent has been using the disputed domain name to operate the same businesses as the Complainant's, which essentially is the sales of cleaning appliances. Based on this fact, it is hard for the Respondent to deny that it has been aware of the Complainant's well-known marks and products. Also, it is materially impossible to determine whether the products sold by the Respondent are counterfeit products which means that real users are even more unable to distinguish them. It is plausible that the Respondent attracts Internet users to its website through the possibility of confusion with the Complainant's trademark. The Panel finds that the Respondent's actions, with respect to the disputed domain name, constitute bad faith registration and use.

Consequently, the Panel concludes that the Respondent violated paragraph 4(a)(iii) of the Policy and specifically paragraph 4(b)(i) thereof. Thus, the Panel concludes that the Complainant has provided sufficient proof of its allegations, with respect to the disputed domain name, to establish a case under paragraph 4(a) of the Policy upon which the relief it now seeks can be granted.

6. Decision

Based on the above analysis, the Panelist decides that: (1) the disputed domain name <ecovacsturkiye.com> is confusingly similar to the Complainant's name or mark in which the complaint has rights; (2) the Respondent has no right or legitimate interest in respect of the disputed domain names; and (3) the Respondent has registered and is using the disputed domain name in bad faith.

Accordingly, under paragraphs 4(i) of the Policy and 15 of the Rules, the Panel grants the relief sought by the Complainant. The disputed domain name, <ecovacsturkiye.com>, is ordered transferred to the Complainant.



Shirley LIN
Panelist

Dated: April 21, 2022