

ADMINISTRATIVE PANEL DECISION

Skechers U.S.A., Inc. II v. Super Privacy Service LTD c/o Dynadot / Robert Parker, Martha Hyland, Nicole Vaughn, Lofgrent BJORK, Bjork JANSSON, Elma HELLSTROM, Filip JANSSON, Melikssa JOHNSON, Sandstrom KHALID, and Client Care, Web Commerce Communications Limited
Case No. D2022-2338

1. The Parties

The Complainant is Skechers U.S.A., Inc. II, United States of America (“United States”), represented by D Young & Co LLP, United Kingdom.

The Respondents are Super Privacy Service LTD c/o Dynadot, United States, Robert Parker, United States, Martha Hyland, Canada, Nicole Vaughn, Canada, Lofgrent BJORK, Germany, Bjork JANSSON, France, Elma HELLSTROM, France, Filip JANSSON, France, Melikssa JOHNSON, Germany, Sandstrom KHALID, France, and Client Care, Web Commerce Communications Limited, Malaysia.

2. The Domain Names and Registrars

The disputed domain names <skechersfactoryshopsouthafrica.com>, <skecherslisboaportugal.com>, <skechers-outlet-danmark.com>, <skechersshoesuae.com>, and <skechersnorge.com> are registered with Alibaba.com Singapore E-Commerce Private Limited (the “First Registrar”).

The disputed domain names <skechersfactoryoutletsq.com>, <skechersfactoryoutletsuk.com>, <skechersfactoryoutletsydney.com>, <skechersmujeroutlet.com>, <skechersonepiecemalaysia.com>, <skechersshoesfactoryoutlet.com>, <skechersstorephilippines.com>, and <skechersworkshoesoutlet.com> are registered with Dynadot, LLC (the “Second Registrar”).

The disputed domain names <skechers-aanbiedingen.com>, <skechersdubaimall.com>, <skechersfactoryoutletusa.com>, <skechers-memory-foam.com>, <skechersoutletauckland.com>, and <skechersperthsale.com> are registered with NETIM SARL (the “Third Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 28, 2022. On June 29, 2022, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On June 29, 2022, the First and Second Registrars transmitted

by email to the Center their verification responses disclosing registrants and contact information for the relevant disputed domain names which differed from the named Respondent and contact information in the Complaint. On June 30, 2022, the Third Registrar transmitted by email to the Center its verification response disclosing registrants and contact information for the relevant disputed domain names which differed from the named Respondent and contact information in the Complaint.

The Center sent an email communication to the Complainant on June 30, 2022 providing the registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on July 1, 2022.

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 Respondents of the Complaint, and the proceeding commenced on July 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 24, 2022. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on July 25, 2022.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on July 29, 2022. 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

A. Complainant

The Complainant is a company established in 1992 and headquartered in California in the United States. The Complainant manufactures and sells footwear in over 170 countries worldwide, in over 3,000 retail stores and online, under the trade mark SKECHERS (the "Trade Mark").

The Complainant is the owner of numerous registrations in jurisdictions worldwide for the Trade Mark, including United States registration No. 1851977, registered on August 30, 1994; and European Union registration No. 002992535, registered on September 29, 2004.

B. Respondents

The Respondents are apparently individuals with addresses in the United States, Canada, Germany, France, Germany, and Malaysia.

C. The Disputed Domain Names

The disputed domain names were registered on the following dates:

<skechers-aanbiedingen.com>	April 25, 2022
<skechersdubaimall.com>	April 24, 2022
<skechersfactoryoutletsq.com>	April 24, 2022
<skechersfactoryoutletsuk.com>	May 14, 2022
<skechersfactoryoutletsydney.com>	April 22, 2022
<skechersfactoryoutletusa.com>	April 18, 2022
<skechersfactoryshopsouthafrica.com>	April 24, 2022
<skecherslisboaportugal.com>	April 27, 2022

<skechers-memory-foam.com>	April 25, 2022
<skechersmujeroutlet.com>	May 5, 2022
<skechersonepiecemalaysia.com>	April 24, 2022
<skechersoutletauckland.com>	April 22, 2022
<skechers-outlet-danmark.com>	May 5, 2022
<skechersperthsale.com>	April 22, 2022
<skechersshoesfactoryoutlet.com>	April 20, 2022
<skechersshoesuae.com>	April 24, 2022
<skechersstorephilippines.com>	April 24, 2022
<skechersworkshoesoutlet.com>	April 20, 2022
<skechersnorge.com>	January 25, 2022

D. The Websites at the Disputed Domain Names

The disputed domain names all resolve to websites offering for sale discounted SKECHERS footwear (the “Website(s)”). Apart from the disputed domain name <skechers.norge>, the content of each of the Websites is identical.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain names are confusingly similar to the Trade Mark, the Respondents have no rights or legitimate interests in respect of the disputed domain names, and the disputed domain names were registered and are being used in bad faith.

B. Respondents

The Respondents did not reply to the Complainant’s contentions.

6. Discussion and Findings

6.1. Preliminary Issue: Consolidation of Respondents

Section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)) provides as follows:

“Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario.”

The Complainant contends that there should be consolidation of the Respondents in the present proceeding, for several reasons, including in particular the following:

- (i) each of the disputed domain names has been registered using incomplete or false addresses, in an attempt to conceal the true identity of the Respondent and using contact information and email addresses that do not match the name of the nominal Respondent; and
- (ii) with the exception of the disputed domain name <skechersnorge.com>, the content and layout of each of the Websites (including text, graphics, colouring and photographs) is identical.

For the above reasons put forward by the Complainant, the Panel concludes that there are sufficient grounds to support the conclusion that, with the exception of <skechersnorge.com>, the disputed domain names are subject to common control and that consolidation would be fair and equitable to all Parties.

Save where the context suggests otherwise, the Respondents will accordingly be referred to as the “Respondent” hereinafter.

Although the disputed domain name <skechersnorge.com> is also resolved to a Website offering for sale discounted SKECHERS footwear, the content, layout, artwork, photographs and graphics of that particular Website is quite different to that of the other Websites. The Panel notes also that the disputed domain name <skechersnorge.com> was registered approximately three months before each of the other disputed domain names. In all the circumstances, the Panel is unable to conclude on the evidence that the disputed domain name <skechersnorge.com> is subject to common control and declines to order consolidation of the disputed domain name <skechersnorge.com>, without prejudice to the Complainant’s right to file a separate proceeding under the Policy with respect to that domain name.

6.2. Substantive Elements of the Policy

The Complainant must prove each of the three elements in paragraph 4(a) of the Policy in order to prevail.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has rights in the Trade Mark acquired through use and registration.

Disregarding the generic Top-Level Domain (“gTLD”) “.com”, each of the disputed domain names incorporates the entirety of the Trade Mark, together with largely English language non-distinctive or descriptive words or place names, and including also the German word “aanbiedingen” (meaning “offers”), the Spanish word “mujer” (meaning “women”), the Danish word “danmark” (meaning “Denmark”), and the Portuguese word “lisboa” (meaning “Lisbon”) (see [WIPO Overview 3.0](#), section 1.7).

Where a relevant trade mark is recognisable within a disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element (see [WIPO Overview 3.0](#), section 1.8).

The Panel therefore finds that the disputed domain names are confusingly similar to the Trade Mark.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in the disputed domain name:

- (i) before any notice to the respondent of the dispute, the respondent’s use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organisation) has been commonly known by the disputed domain name even if the respondent has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

The Complainant has not authorised, licensed, or permitted the Respondent to register or use the disputed domain names or to use the Trade Mark. The Panel finds on the record that there is therefore a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names, and the burden

is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that he has acquired any trade mark rights in respect of the disputed domain names or that the disputed domain names have been used in connection with a *bona fide* offering of goods or services.

To the contrary, the Respondent has used the disputed domain names in order to offer for sale discounted footwear on the Websites under the Trade Mark, without the sponsorship, authorisation, or approval of the Complainant. Furthermore, the content of the Websites includes promotional logos and images the copyright in which is owned by the Complainant, and which have been reproduced on the Websites without the licence or approval of the Complainant.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain names.

There has been no evidence adduced to show that the Respondent is making a legitimate noncommercial or fair use of the disputed domain names.

In all the circumstances, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names.

C. Registered and Used in Bad Faith

In light of the manner of use of the Websites set out section 6.2.B. above, the Panel finds that bad faith has been made out by the Complainant under paragraph 4(b)(iv) of the Policy.

For all the foregoing reasons, the Panel concludes that the disputed domain names have been registered and are being used in bad faith.

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 <skechers-aanbiedingen.com>, <skechersdubaimall.com>, <skechersfactoryoutletsg.com>, <skechersfactoryoutletsuk.com>, <skechersfactoryoutletsydney.com>, <skechersfactoryoutletusa.com>, <skechersfactoryshopsouthafrica.com>, <skecherslisboaportugal.com>, <skechers-memory-foam.com>, <skechersmujeroutlet.com>, <skechersonepiecemalaysia.com>, <skechersoutletauckland.com>, <skechers-outlet-danmark.com>, <skechersperthsale.com>, <skechersshoesfactoryoutlet.com>, <skechersshoesuae.com>, <skechersstorephilippines.com> and <skechersworkshoesoutlet.com> be transferred to the Complainant.

The Complaint is denied regarding the disputed domain name <skechersnorge.com>, without prejudice to the Complainant's right to file a separate proceeding under the Policy.

/Sebastian M.W. Hughes/

Sebastian M.W. Hughes

Sole Panelist

Dated: August 12, 2022