

## **ADMINISTRATIVE PANEL DECISION**

C. & J. Clark International Ltd v. Alexander Barth, Yong Gao, Katharina Schneider, Gabriele HUBER, Laura WECHSLER, Janina FOERSTER, Heike NEUSTADT, Leonie GRUENEWALD, Leonie FREY, Karin SANKT, Lisa WULF, Tobias WULF, Katharina HERMAN, Luca KOCH, Uta HIMMEL, Barbara KUHN, Janina FUERST, Michael MUELLER, Michael SCHMITT, Bernd NEUDORF, Ralf BOEHM, Lukas FISHER, Benjamin SCHMITZ, Swen RICHTER, Christin MAUR, Erik MOELLER, Jana SCHULTZ, Karolin NAUMANN, Monika GERBER, Dieter NUSSBAUM, Anja DIEDERICH, Stefan SCHREIBER, Alexander LEHMANN, Lea FINK, Wolfgang MAYER, Kevin FARBER, Robert THEISS, Anne BURGER, Stefanie FEIERABEND, Michael ABT, Jonas FREYTAG, Claudia DURR, Doreen MUELLER, Steffen THEISSEN, Anne WANNEMAKER, Sabrina ROTHSCILD, Leah KAPPEL, Steffen SCHULZE, Andreas NEUMANN, Herbert BROWN, Martina FINK, Ute KLUGE, Yaomine Melikssa, Hellstrom Henrik, Khalid Yaomine, Andersson Hermansson, Embla Valentina, Yaomine Anita, Yaomine Isaksson, Olga Arvidsson, Filip Elliot, Maria Filip, Michelle Hartmann, Ulrich Achen, MARIA ION, Anja Vogt, Diucio Boioua, Diuvvnxz Vijzxcn, Philipp Lehmann, Vanessa Abendroth, ying gan, Liu Yufeng, Jessica Scholz, Katie Hernandez, Henrik Tess, Qiu Xiaofeng, LiuEnpeng, Brigitte Brandt, Erik Eberhart, Maria Bachmeier, Hhbsh Hhbsh, Client Care, Web Commerce Communications Limited, Jordan Hobbs, Lola Farmer, William Rice, Ellie Sanders, Joshua Bell, Anna Bennett, Demi Schofield, Isabelle Browne, Kayleigh White, Lucy Walters, Gabriel Clarke, Nicole Hopkins, Daniel Gregory, Leon Waters, Name Redacted, Alexander Hirsch, Patrick Metzger, Tim Wuess, Lawrence Selzer, Patrick Metzger, Phillipp Pfeifer, Sven Ritter, REDACTED FOR PRIVACY, Christine Krause, Connie Bankhead, Carroll Hein, William Charest, Phillipp Himmel, Lena Frueh, Niklas Engel, Ralf Loewe, Marco Beike, Sabrina Maier, Sven Kaestner, Daniel Eisenhauer, Tanja Grunewald, Yvonne Theiss, Matthias Wurfel, marcel loewe, sabine fuhrmann, luca oster, mike bar, Max Himmel, lisa eberhart, Barbara Ziegler, Philipp Kruger, Anja Reinhard, Jonas Frei, Patrick Hoffmann, Stephan fiedler, sara eichel, Jessika fiedler, Lucas Weissmuller, Philipp Schuster, dieter gaertner, Thomas Fisher, Jessica Eichmann, jens waechter,

Nadine Achen, tim bachmeier, petra kuster, Sara Friedman, Simone Meister, Marko Nacht, Claudia schultz, Lea Hofmann, Franziska huber, Michael zweig, marina hertzog, Antje Schaefer, Joel Edwards, Johanna Gerber, Jens Reinhardt, Felix Drechsler, Leonie Ritter, Simone Schiffer, Martina Meister, Manuela Freytag, Klaus mueller, Dieter Dresner, Heike Neumann, Mike Moeller, jan frey, Gabriele Adler, Dieter Fuerst, Helin Henrik, Wang Ling, and Rudolf Schulze  
Case No. D2023-2969

## 1. The Parties

The Complainant is C. & J. Clark International Ltd, United Kingdom, represented by SafeNames Ltd., United Kingdom.

The Respondents are Alexander Barth, Yong Gao, Katharina Schneider, Gabriele HUBER, Laura WECHSLER, Janina FOERSTER, Heike NEUSTADT, Leonie GRUENEWALD, Leonie FREY, Karin SANKT, Lisa WULF, Tobias WULF, Katharina HERMAN, Luca KOCH, Uta HIMMEL, Barbara KUHN, Janina FUERST, Michael MUELLER, Michael SCHMITT, Bernd NEUDORF, Ralf BOEHM, Lukas FISHER, Benjamin SCHMITZ, Swen RICHTER, Christin MAUR, Erik MOELLER, Jana SCHULTZ, Karolin NAUMANN, Monika GERBER, Dieter NUSSBAUM, Anja DIEDERICH, Stefan SCHREIBER, Alexander LEHMANN, Lea FINK, Wolfgang MAYER, Kevin FARBER, Robert THEISS, Anne BURGER, Stefanie FEIERABEND, Michael ABT, Jonas FREYTAG, Claudia DURR, Doreen MUELLER, Steffen THEISSEN, Anne WANNEMAKER, Sabrina ROTHSCILD, Leah KAPPEL, Steffen SCHULZE, Andreas NEUMANN, Herbert BROWN, Martina FINK, Ute KLUGE, Yaomine Melikssa, Hellstrom Henrik, Khalid Yaomine, Andersson Hermansson, Embla Valentina, Yaomine Anita, Yaomine Isaksson, Olga Arvidsson, Filip Elliot, Maria Filip, Michelle Hartmann, Ulrich Achen, MARIA ION, Anja Vogt, Diucio Boioua, Diuvvnxz Vijzxcn, Philipp Lehmann, Vanessa Abendroth, ying gan, Liu Yufeng, Jessica Scholz, Katie Hernandez, Henrik Tess, Qiu Xiaofeng, LiuEnpeng, Brigitte Brandt, Erik Eberhart, Maria Bachmeier, Hhbsh Hhbsh, Client Care, Web Commerce Communications Limited, Jordan Hobbs, Lola Farmer, William Rice, Ellie Sanders, Joshua Bell, Anna Bennett, Demi Schofield, Isabelle Browne, Kayleigh White, Lucy Walters, Gabriel Clarke, Nicole Hopkins, Daniel Gregory, Leon Waters, Name Redacted<sup>1</sup>, Alexander Hirsch, Patrick Metzger, Tim Wuess, Lawrence Selzer, PatrickMetzger, Phillip Pfeifer, Sven Ritter, REDACTED FOR PRIVACY, Christine Krause, Connie Bankhead, Carroll Hein, William Charest, Phillip Himmel, Lena Frueh, Niklas Engel, Ralf Loewe, Marco Beike, Sabrina Maier, Sven Kaestner, Daniel Eisenhauer, Tanja Grunewald, Yvonne Theiss, Matthias Wurfel, marcel loewe, sabine fuhrmann, luca oster, mike bar, Max Himmel, lisa eberhart, Barbara Ziegler, Philipp Kruger, Anja Reinhard, Jonas Frei, Patrick Hoffmann, Stephan fiedler, sara eichel, Jessika fiedler, Lucas Weissmuller, Philipp Schuster, dieter gaertner, Thomas Fisher, Jessica Eichmann, jens waechter, Nadine Achen, tim bachmeier, petra kuster, Sara Friedman, Simone Meister, Marko Nacht, Claudia schultz, Lea Hofmann, Franziska huber, Michael zweig, marina hertzog, Antje Schaefer, Joel Edwards, Johanna Gerber, Jens Reinhardt, Felix Drechsler, Leonie Ritter, Simone Schiffer, Martina Meister, Manuela Freytag, Klaus mueller, Dieter Dresner, Heike Neumann, Mike Moeller, jan frey, Gabriele Adler, Dieter Fuerst,

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<sup>1</sup> The name and contact details of one Respondent appear to have been used without its consent when registering the disputed domain name <clarksbudapest.net>. In light of the potential identity theft, the Panel has redacted this Respondent's name from this Decision. However, the Panel has attached as Annex 2 to this Decision an instruction to the Registrar regarding transfer of the disputed domain name <clarksbudapest.net>, which includes the name of this Respondent. The Panel has authorized the Center to transmit Annex 2 to the Registrar as part of the Decision in this proceeding, and has indicated Annex 2 to this Decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

Helin Henrik, Wang Ling, and Rudolf Schulze, located in Austria, China, France, Hong Kong, China, Germany, Malaysia, United States of America, respectively.

## 2. The Domain Names and Registrars

The 430 disputed domain names are registered with the Registrars as set out in Annex 1 to this Decision. The Registrars Alibaba.com Singapore E-Commerce Private Limited (“Alibaba.com Singapore”); Dynadot, LLC; Gname.com Pte. Ltd.; Gransy, s.r.o. d/b/a subreg.cz (“subreg.cz”); Key-Systems GmbH; Name.com, Inc; NETIM SARL; OwnRegistrar, Inc.; Paknic (Private) Limited; PDR Ltd. d/b/a PublicDomainRegistry.com (“PublicDomainRegistry.com”); Web Commerce Communications Limited dba WebNic.cc (“WebNic.cc”); and 1API GmbH are collectively and separately referred to in this Decision as the “Registrar”.

## 3. Procedural History

The Complaint was filed in English against 469 domain names with the WIPO Arbitration and Mediation Center (the “Center”) on July 7, 2023. On July 12, 2023, the Center transmitted by email to the Registrars and other relevant registrars a request for registrar verification in connection with the 469 domain names. Between July 13 and July 29, 2023, the Registrar transmitted by email to the Center its verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondents (Domain Admin *et al.*) and contact information in the Complaint and further disclosing that 23 disputed domain names had expired and been deleted. The Center sent email communications to the Complainant on July 17, and 18, 2023 informing the Complainant of the deleted domain names. On July 19, 2023, the Complainant requested to withdraw the 23 deleted domain names from the proceeding and filed the first amended Complaint in English against 446 remaining domain names. On July 28, 2023, the Center notified the partial withdrawal of the 23 deleted domain names as per the Complainant’s request. The Center sent an email communication to the Complainant on August 2, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On the same day, the Center transmitted another email communication to the Parties in English and Chinese regarding the language of the proceeding. On August 11, 2023, the Complainant requested to withdraw 16 more domain names from the proceeding and filed the second amended Complaint in English against 430 disputed domain names, in which it requested that English be the language of the proceeding. The Respondents did not comment on the language of the proceeding. The Center sent another email communication to the Complainant on August 23, 2023 inviting the Complainant to make a further amendment to the Complaint with regard to the issue of the language of the proceeding. On August 24, 2023, the Complainant filed the third amended Complaint in English against the 430 disputed domain names. On August 25, 2023, the Center notified the partial withdrawal of the 16 domain names as per the Complainant’s request.

The Center verified that the Complaint together with the amended Complaints 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 in Chinese and English of the Complaint, and the proceedings commenced on August 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 19, 2023. The Respondents did not submit any response. However, the Center did receive an automatic email reply to each of the Center’s email communications to the Parties from two of the Registrar-provided registrant email addresses. Further, the Center received a telephone call from a third party claiming identity theft regarding one disputed domain name. The Center notified the Parties on October 18, 2023 that it would proceed to panel appointment.

On October 19, 2023, the Registrar confirmed that the disputed domain name <clarksfrancesoldes.com> had been deleted upon expiry.

The Center appointed Matthew Kennedy as the sole panelist in this matter on October 25, 2023. 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.

The Panel notes that the Respondent's name with respect to the disputed domain name <clarksmalaysiastore.com> remains redacted for privacy. In accordance with the Panel's instruction, the Center sent an email communication to the Registrar on November 27, 2023, requesting that it disclose the underlying registrant information in relation to this disputed domain name, if any. On November 28, 2023, the Registrar confirmed to the Center that it does not have any other registrant data for this disputed domain name.

#### 4. Factual Background

The Complainant is a shoe manufacturer and retailer founded in 1825 by brothers Cyrus and James Clark. The Complainant's brand and trade name derive from the family name of its founders. Today, the Complainant operates through approximately 1,400 branded stores and franchises and has operations in over 75 countries. It holds multiple trademark registrations, including the following:

- United Kingdom trademark registration number UK0000504405A for CLARKS, registered on July 11, 1929, specifying goods in class 25; and
- International trademark registration number 1278277 for a semi-figurative CLARKS mark (the "CLARKS logo"), registered on August 10, 2015, designating multiple jurisdictions, and specifying goods in classes 3 and 18.

The above trademark registrations remain current. The Complainant has also registered multiple domain names, many consisting of "clarks" in a country code Top-Level Domain ("ccTLD"), as well as others, such as <clarksusa.com> and <clarkscanada.com> in a generic Top-Level Domain ("gTLD"). The Complainant uses its domain names in connection with its national and other websites where it offers its products for sale.

The Respondents are identified with respect to 239 disputed domain names as "Client Care, Web Commerce Communications Limited"<sup>2</sup>, which is a web service provider based in Malaysia and appears to be a proxy registrant. The Respondents are identified with respect to other disputed domain names as different individuals, most of them with a contact address in Germany, some with a contact address in China, and the rest with contact addresses elsewhere.

The disputed domain names were registered on the dates shown in Annex 1 to this Decision, which range from January 13, 2021 to May 6, 2023. Most disputed domain names resolve (or formerly resolved) to store websites that prominently display the CLARKS logo and offer for sale footwear. The photographs appear to be the Complainant's footwear including, for example, Clarks Originals and Desert Boots. The websites do not appear to offer other products for sale, except for the site associated with <clarks-ph.com>, which also offers third party-branded shoes, the site associated with <shopclarksshoe.com>, which also offers third party-branded backpacks and bags, the site associated with <shoe-clarks.com>, which also offers a bag (possibly a Clarks bag), and the site associated with <clarksfiona.com>, which also displays images of children's books. In most cases the websites' layout is similar to that of the Complainant's websites. Prices are discounted. Several disputed domain names redirected to another disputed domain name (typically an internationalized or otherwise similar domain name) that resolved to such a store website.

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<sup>2</sup> "Client Care, Web Commerce Communications Limited" was originally identified as the registrant of 240 disputed domain names but one of these, <clarksfrancesoldes.com>, was deleted during the proceeding (see section 6.1.A below).

Another disputed domain name (<clarkscipo.com>) formerly resolved to a webpage displaying pay-per-click (“PPC links”), including a link related to “Clark Shoes Men”. Other disputed domain names resolve to webpages variously displaying an access denied message, a notice of suspension, an error message, a timed-out message, a blocked message, a blank webpage flagged as dangerous, and a webpage index. The remaining disputed domain names do not appear to have ever resolved to any active website; rather, they appear to have been passively held since their registration. Many of the disputed domain names that formerly resolved to store websites or PPC links no longer resolve to an active website.

## **5. Parties’ Contentions**

### **A. Complainant**

The disputed domain names are confusingly similar to the Complainant’s CLARKS mark.

The Respondents have no rights or legitimate interests in respect of the disputed domain names. The Respondents have not been licensed by the Complainant to use domain names that feature its CLARKS trademark. At least 336 disputed domain names have been used to resolve to fake shops that impersonate the Complainant. The Respondents were likely using these disputed domain names in connection with fraudulent activity to collect Internet users’ personal information. One is currently used to host PPC links, including a link that specifically targeted the Complainant’s offerings. Approximately 337 disputed domain names are currently passively held.

The disputed domain names were registered and are being used in bad faith. Given the global renown of the Complainant, and the Respondents’ clear and prominent use of the Complainant’s marks in the disputed domain names, it is clear that the Respondents should have been aware of the Complainant’s rights in the CLARKS mark. The Respondents have intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s CLARKS mark and offerings. The passively-held disputed domain names comprise the Complainant’s globally renowned and distinctive CLARKS mark. There is no evidence that the Respondents have provided, or could provide, any actual or contemplated good faith use in respect of the passively held disputed domain names, particularly given its pattern of cybersquatting conduct.

### **B. Respondents**

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

## **6. Discussion and Findings**

### **6.1. Procedural Issues**

#### **A. Deletion of Domain Name**

On October 19, 2023, the Registrar confirmed that the disputed domain name <clarksfrancesoldes.com> had been deleted upon expiry. According to the current Whois data, an identical domain name was created on October 19, 2023 and is apparently registered under the name of the Complainant. In light of this new information, the Panel does not consider this disputed domain name to be covered by this dispute.

#### **B. Consolidation: Multiple Domain Name Registrants**

The third amended Complaint initiates disputes in relation to multiple nominally different domain name registrants. The Complainant alleges that the disputed domain name registrants are subject to common control. It submits that the majority of them follow a similar lexical pattern, many have been registered on the same day or within short periods of each other, 240 (now 239 excluding <clarksfrancesoldes.com>) are held

in the name of Client Care, Web Commerce Communications Limited, 155 are associated with fake, stolen or incomplete German postal addresses, and the remaining 35 can be linked to the others by evidence, such as website content, IP addresses, dates of registration, registrars or name servers.

The Complainant requests consolidation of the disputes against the disputed domain name registrants pursuant to paragraph 10(e) of the Rules. 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. However, the Panel does not consider that paragraph 3(c) of the Rules was intended to enable a single person or entity to put a complainant to the unnecessary time, expense, and effort of initiating multiple proceedings against technically different domain name registrants, particularly when each registration raises the same issues. 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 *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#) and 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 239 disputed domain names are registered in the same name (i.e., Client Care, Web Commerce Communications Limited) (referred to below as the "WCC domain names"). The remainder follow the same naming pattern as the WCC domain names, combining "clarks" with one or more geographic, footwear or retail terms, although 9 domain names omit the final "s". Various similarities can also be observed between their respective registration details or associated websites, or both, including the following:

- 56 disputed domain names resolve or formerly resolved to different language versions of the same store websites as one or more WCC domain names (i.e., <clarksobuwie.pl.org>, <clarksoutletnz.top>, <clarkscoza.com>, <clarksukco.com>, <clarks-schweiz.com>, <clarks-cz.com>, <clarks-polska.com>, <clarks-norge.com>, <clarksgreecegr.com>, <clarks-argentina.com>, <clarks-colombia.com.co>, <clarks-dk.com>, <clarkswinkelbelgie.com>, <clarkskengat.top>, <clarkchile.com>, <clark-chile.com>, <clarks-en-chile.com>, <clarksencolombia.com>, <clarks-slovenija.com>, <clarksfactoryireland.com>, <clarksschweizkaufen.com>, <clarksoutletphilippines.com>, <clarksschuhe-osterreich.com>, <clarksoutlethrvatska.com>, <clarksshoesmalaysia.com>, <clarksstoregreece.com>, <clarkshrvatskaoutlet.com>, <clarksnnettbutikk.com>, <clarksstoremalaysia.com>, <clarksslovenia.com>, <tiendaclarkschile.com>, <clarksvypredaj.com>, <clarks-israel.com>, <clarksuksales.com>, <clarksusaclearance.com>, <clarkslojas.com>, <clarkshelsinki.com>, <clarksargentiazapatos.com>, <zapatosclarkscolombia.com>, <clarkshoesnz.com>, <clarkshoessouthafrica.com>, <clark-za.com>, <clarkssalenorge.com>, <clarksirelandshop.com>, <clarkssaeturkiye.com>, <sapatosclarkportugal.com>, <clarksco.com.co>, <clarkscolombia.com.co>, <clarksscarpenegozi.com>, <clarksshoeshungary.com>, <clarksslovensko.com>, <clarkswarszawa.com>, <clarkssuomi.org>, <clarksmalaysiastore.com>, <clarksoutletromania.co>, and <clarksbutik.com>);
- 42 disputed domain names share the same IP address as one or more of the WCC domain names and, in some cases, the same registration date (i.e., <clarkparis.com>, <clarksbootscanada.com>\*, <clarksbudapest.net>, <clarksbutypolska.com>, <clarksromania.net>\*, <clarkschile.net>\*, <clarksfactoryuk.com>, <clarksfiona.com>, <clarksoutletdanmark.com>, <clarksportugalonline.com>, <clarksschuhe-schweiz.com>, <clarksshoecanada.com>, <clarkstarjous.com>, <clarksuae.net>\*, <clarkscipő.com>\*, <clarkssuisse.com>\*, <clarks-nl.com>^, <clarks-peru.com>^, <clarks-pl.com>^, <clarks-slovenia.com>^, <clarksinchile.com>^, <clarksitaly.com>^, <clarksshoessaleireland.org>, <clarkssouth-africa.com>^, <clarks-nz.com>^, <clarks-sverige.com>^, <clarks-turkiye.com>^, <clarksca.com>^, <clarksoutletireland.com>^, <clarkssk.com>^, <clarkskey.com>, <clarkphilippinesbranches.com>, <clarksayakkabi.com>\*, <clarksfactoryoutletsingapore.com>, <clarksméxico.com>, <clarksoutletturkey.com>, <clarkssandalsaustralia.com>, <clarkstürkiye.com>, <shoe-clarks.com>, <singaporeclarks.com>, <theclarkssusa.com> and <trendyclarks.com>);

- 8 disputed domain names (and now many more of those listed below) resolve to the same “access denied” webpage to which 12 (now 32) WCC domain names resolve (i.e., <clarkskorra.com>, <clarkmalaysia.com>, <sapatoclarks.com>, <clarks-suomi.com>, <tiendasclarks.com>, <clarkssrbija.com>, <clarkscolumbia-co.com>, and <clarksdames.com>);
- 18 disputed domain names (i.e., <clarks-uae.com>, <clarks-danmark.com>, <clarksde.com>, <clarkscipobolt.com>, <clarksbrasil.com>, <clarks-portugal.com>, <clarkshrvatska.com>, <clarksjapan.com>, <clarkscolumbia.com>, <clarks-no.com>, <clarks-belgie.com>, <clarksoutletgreece.com>, <clarksinschweiz.com>, <clarksmalta.com>, <clarksluxembourg.com>, <clarkscyprus.com>, <clarksshoesindia.com>, and <clarks-singapore.com>) resolve or formerly resolved to different language versions of the same store website as the disputed domain names marked with a carat (“^”) above (the “family Christmas website”). Further, most of these were registered on the same date and with the same Registrar as 3 disputed domain names that resolve to the access denied webpage;
- 18 disputed domain names (i.e., <clarksoutletjapan.com>, <clarkschaussures.com>, <clarksireland.net>, <clarksbootsuk.com>, <clarksportugal.net>, <clarksgreece.net>, <clarksnlkkurit.com>, <clarksschoenen.net>, <clarksskooslo.com>, <clarksschoenenbelgie.com>, <clarksshoesnz.net>, <clarksshoesaustralia.net>, <clarkssko.net>, <clarksmontreal.net>, <clarkspraha.com>, <clarksskor.net>, <clarksespaña.com>, and <clarkszürich.com>) resolve or formerly resolved to different language versions of the same store website as the disputed domain names marked with an asterisk (“\*”) above (the “Cyber week website”). Further, many of these were registered on the same day as one or more WCC domain names, and some share the same IP address as one or more WCC domain names;
- 2 disputed domain names (i.e., <clarkskopen.com> and <clarkssaledanmark.com>) are each registered in the same name (i.e., Lawrence Selzer or Connie Bankhead) as one of the disputed domain names listed above (i.e., <clarksbutypolska.com> and <clarkssalenorge.com>);
- the disputed domain name <clarkscomau.com> formerly resolved to the same website as the disputed domain name <singaporeclarks.com> listed above;
- the disputed domain name <clarksschoenwinkel.com> has the same IP address as <clarkskopen.com>, listed above;
- 37 disputed domain names (i.e., <botasclarksenmexico.com>, <clarkmilano.com>, <clarknederland.com>, <clarksbuenosaires.com>, <clarkscipobudapest.com>, <clarksenmexico.com>, <clarkseufrance.com>, <clarkshoesoutletusa.com>, <clarkshoessingapore.com>, <clarkshungaryhu.com>, <clarksindonesiastore.com>, <clarksirelandonline.com>, <clarksisrael.com>, <clarksitalianegozi.com>, <clarksmagyarorszag.com>, <clarksnzoutlet.com>, <clarksoutletdeutschland.com>, <clarksoutletsouthafrica.com>, <clarkssphilippinesshoes.com>, <clarkssaldi.com>, <clarkssalemalaysia.com>, <clarkssalesuk.com>, <clarksschuhewien.com>, <clarkssouthafricasale.com>, <clarksuksandals.com>, <clarkssuomi.net>, <clarksusaonline.com>, <clarkswebshop.com>, <zapatosclarksargentina.com>, <clarks-mx.com>, <clarks-szandal.com>, <clarksbolt.com>, <clarksshoesnewzealand.com>, <clarksskoherre.com>, <clarkstiendasmadrid.com>, <clarkssalesingapore.com>, and <tenisclarksmexico.net>) were registered on the same day as, or within a short time of, certain WCC domain names, with the same Registrars as other disputed domain names listed above, and with registrant and contact details following the same pattern as 63 of the disputed domain names listed above, consisting of a name, street address and telephone number of an individual in Germany combined with an email address from one or other of two Chinese email providers;
- 2 disputed domain names (i.e., <clarkspolskasklepy.com> and <clarksse.com>) share the same IP address as 7 disputed domain names listed above (i.e., <clarkscipobudapest.com>, <clarksindonesiastore.com>, <clarksisrael.com>, <clarksirelandonline.com>, <clarksusaonline.com>, <clarkssalemalaysia.com>, and <clarkssalesuk.com>); and

- 4 disputed domain names (i.e., <clarksoutletmadrid.com>, <clarkshoenz.com>, <clarksoutlet-suomi.com>, and <clarksuksale.com>) were registered on the same day or within a short time of certain WCC domain names, they are hosted on the same nameservers as WCC domain names, and they were registered with the same Registrar as many other disputed domain names listed above.

In these circumstances, the Panel is persuaded that the above 428 disputed domain names are under common control.

However, the Panel does not find a sufficient basis in the record to infer that the disputed domain name <shopclarksshoe.com> is under common control with the others. Although it is registered with the same Registrar as one other disputed domain name (i.e., <clarksfiona.com>), and it is hosted on Cloudflare nameservers and put to a similar use to many other disputed domain names, nevertheless, according to the evidence provided by the Complainant, it is the only one that resolves to a website offering for sale third party-branded backpacks and bags (e.g., Jansport backpacks and bags), the only one with a contact address in Hong Kong, China, and it does not share the same registration date or same IP address of any other disputed domain name. Based on the available data, the disputed domain name <shopclarksshoe.com> may well be an opportunistic registration by a different person acting independently of the others. In these circumstances, the Panel is not satisfied that, on the balance of probabilities, this one disputed domain name is under common control with the other 428.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes regarding the various registrants of the 428 disputed domain names would be unfair or inequitable to any Party.

Accordingly, the Panel declines to consolidate the disputes regarding the disputed domain name <shopclarksshoe.com> registered in the name of “Hhbsh Hhbsh”. This decision is made without prejudice to the possibility of refiling a complaint regarding this domain name. On the other hand, the Panel will decide the Complaint regarding all other disputed domain names listed in Annex 1 to this Decision, registered in the names of other registrants shown in section 1 and Annex 1 (separately and collectively referred to below as the “Respondent”).

### **C. Language of the Proceeding**

Paragraph 11(a) of the Rules provides that “unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding”. The Registrar confirmed that the Registration Agreements for the disputed domain names are in English except for the two disputed domain names registered with Gname.com Pte. Ltd (i.e., <clarkskey.com> and <shoe-clarks.com>), which are registered in the names of ying gan and Liu Yufeng, respectively, both of China.

The Complainant requests that the language of the proceeding be English. Its main arguments are that many of the disputed domain names, including the two registered with Gname.com Pte Ltd., comprise English generic terms; the majority of the websites associated with the disputed domain names resolve to content in English or with an English version available; and translation of the amended Complaint would result in the incurrence of additional expenses and unnecessary delay.

Paragraphs 10(b) and (c) of the Rules require the Panel to ensure that the Parties are treated with equality, that each Party is given a fair opportunity to present its case and that the administrative proceeding take place with due expedition. Prior UDRP panels have decided that the choice of language of the proceeding should not create an undue burden for the parties. See, for example, *Solvay S.A. v. Hyun-Jun Shin*, WIPO Case No. [D2006-0593](#); *Whirlpool Corporation, Whirlpool Properties, Inc. v. Hui'erpu (HK) electrical appliance co. ltd.*, WIPO Case No. [D2008-0293](#) and [WIPO Overview 3.0](#), section 4.5.1.



The Panel observes that the Complaint and amended Complaints were filed in English. Despite the Center having sent an email regarding the language of the proceeding and the Notification of the Complaint in English and Chinese, the registrants of the disputed domain names <clarkskey.com> and <shoe-clarks.com> have not requested that Chinese be the language of the proceeding or expressed any interest in otherwise participating in this proceeding. Moreover, the Panel has found that these two disputed domain names or their associated websites are under common control with the others, for which the Registration Agreements are in English. Therefore, the Panel considers that requiring the Complainant to translate the Complaint would create an undue burden and delay.

Having considered all the circumstances above, the Panel determines under paragraph 11(a) of the Rules that the language of this proceeding is English.

## 6.2. Substantive Issues

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following elements with respect to each disputed domain name:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The burden of proof of each element is borne by the Complainant.

### A. Identical or Confusingly Similar

Based on the evidence presented, the Panel finds that the Complainant has rights in the CLARKS mark.

A total of 419 disputed domain names wholly incorporate the CLARKS mark. They also incorporate other elements consisting of one or more geographic, footwear, or retail terms as follows:

- the geographic terms consist of country names (such as “Malaysia”), phrases incorporating a country name (such as “in Chile”), country abbreviations (such as “co” for Colombia, or “sk” for Slovakia), city names (such as “Milano” or “Paris”), and city abbreviations (such as “cdmx” for Ciudad de México, or “nyc” for New York City);
- the footwear terms include “botas” and “boty” (“boots” in Spanish and Czech), “footwear”, “obuwie” (“footwear” in Polish), “sandals”, “szandal” (“sandals” in Hungarian), “shoe”, “ayakkabi”, “cipő” or “cipo”, and “sapato” (“shoe” in Turkish, Hungarian and Portuguese), “shoes”, “buty”, “chaussures”, “cipele”, “ghete”, “kengat”, “sapatos”, “scarpe”, “schoenen”, “schuhe”, “sko”, “skor”, “zapatos” (“shoes” in Polish, French, Croatian, Romanian, Finnish, Portuguese, Italian, Dutch, German, Danish, Swedish and Spanish), “tenis” (“sneakers” in Spanish), “sko herre” (“men’s shoes” in Danish), “dames” (“ladies” in Dutch and French), “nilkkurit” (“ankle boots” in Finnish), “originals”, “pure tone” and “wallabees” (all Clarks product lines), “key” (a Clarks product design feature) and “trendy”; and
- the retail terms include “shop”, “magasin”, “magazine” and “winkel” (“shop” in French, Romanian and Dutch), “negozi” and “sklepy” (“shops” in Italian and Polish), “botl” and “butik”, (“store” in Hungarian and Danish), “stores”, “lojas”, and “tiendas” (“stores” in Portuguese and Spanish), “aanbieding” and “tarjous” (“offer” in Dutch and Finnish), “branches”, “co” (as in “company”), “en ucuz” (“cheapest” in Turkish), “clearance”, “factory”, “kaufen” and “kopen” (“buy” in German and Dutch), “mall”, “web shop”, “nettbutikk” and “sklep internetowy” (“online store” in Norwegian and Polish), “online”, “outlet”, “outlets”, “sale”, “vypredaj” (“sale” in Slovak), “sales”, “saldi” (“sales” in Italian), “price” and “the”.

The Panel does not consider that the addition of the above terms prevents a finding of confusing similarity as regards these 419 disputed domain names because the CLARKS mark remains clearly recognizable in each of them. See [WIPO Overview 3.0](#), sections 1.7 and 1.8. The Panel takes note that in eight of the above disputed domain names, the final “s” in the mark overlaps with an initial “s” in the term that follows it. Further, certain disputed domain names contain typographical errors, such as an additional letter (<clarkssstoresingapore.com>, <clarksxhungary.com>, and <clarkssingapores.com>), or a missing letter (<clarksssoeus.com>). However, the Panel finds that none of these misspellings affects the recognizability of the CLARKS mark in the relevant disputed domain names.

The remaining nine disputed domain names incorporate almost all of the CLARKS mark, omitting only the plural “s”. These disputed domain names are <clark-chile.com>, <clarkchile.com>, <clark-colombia.com>, <clarkmalaysia.com>, <clarkmilano.com>, <clarknederland.com>, <clarkparis.com>, <clark-za.com> and <sapatosclarkportugal.com>. This difference does not prevent a finding of confusing similarity as the dominant element of the mark is clearly recognizable within each of these nine disputed domain names.

The only other element in the disputed domain names is a gTLD extension (variously “.com”, “.net”, “.org” or “.top”) or a ccTLD extension (“.co”) or, in three cases, a Secondary Level Domain (2LD) (“.com.co”). As a standard requirement of domain name registration, the TLD and 2LD extensions may be disregarded in the comparison with the Complainant’s mark for the purposes of the first element of paragraph 4(a) of the Policy. See [WIPO Overview 3.0](#), section 1.11.

Accordingly, the Panel finds that all 428 disputed domain names are confusingly similar to the Complainant’s CLARKS mark for the purposes of the Policy. Therefore, the Panel finds the first element of the Policy has been established.

## **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the Panel, shall demonstrate that a respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- (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 organization) [has] been commonly known by the [disputed] domain name, even if [the Respondent has] acquired no trademark 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 trademark or service mark at issue.

The Complainant submits that it has not licensed the Respondent to use the disputed domain names that feature its CLARKS trademark. It is clear from the Complaint that the Respondent is not associated with the Complainant in any way.

As regards the first and third circumstances set out above, most disputed domain names resolve or formerly resolved or redirected to websites, such as the family Christmas website, the Cyber week website, and other websites, that prominently display the CLARKS logo and offer footwear for sale. The footwear displayed appears to be the Complainant’s products. The websites do not appear to offer other products for sale, with only four possible exceptions as mentioned in section 4. above. Regardless of whether the footwear offered for sale on the websites is genuine or counterfeit, the websites give the false impression that they are affiliated with the Complainant, and they do not display any accurate and prominent disclaimers regarding the lack of relationship between the Complainant and the Respondent. The disputed domain name <clarkscipo.com> formerly resolved to a webpage displaying PPC links, including one link that related to the Complainant’s products. These links operated for the commercial gain of the Respondent, if it was paid to direct traffic to the linked sites, or for the commercial gain of the operators of the linked sites, or both.

At the present time, many of these disputed domain names no longer resolve to an active website. The other disputed domain names resolve to webpages displaying various types of service messages or else they appear to have been passively held since their registration. None of this evidence indicates that the disputed domain names are being used in connection with a *bona fide* offering of goods or services for the purposes of the Policy or that the Respondent is making a legitimate noncommercial or fair use of any of the disputed domain names.

As regards the second circumstance, the Respondent's names are listed in the Registrar's Whois database as set out in Annex 1 to this Decision. None of those names resembles a disputed domain name. There is no evidence indicating that the Respondent has been commonly known by any of the disputed domain names.

In summary, the Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent failed to rebut that *prima facie* case because it did not respond to the Complaint.

Therefore, based on the record of this proceeding, the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy provides that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith, but these circumstances are not exhaustive. The fourth circumstance is as follows:

“(iv) by using the [disputed] domain name, [the respondent has] intentionally attempted 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 or location or of a product or service on [the respondent's] website or location.”

As regards registration, the disputed domain names were registered during the period from January 13, 2021 to May 6, 2023, which was long after the registration of the Complainant's trademarks. Almost all the disputed domain names wholly incorporate the CLARKS mark, in most cases as their initial element, while nine disputed domain names incorporate that mark with the omission only of the plural “s”. The CLARKS mark is well known in the fashion sector due to its longstanding and widespread use. The use of footwear-related terms in many disputed domain names indicates an awareness of the Complainant and its products. The websites associated or formerly associated with most of the disputed domain names prominently displayed the Complainant's CLARKS logo and offered footwear for sale, which also indicates an awareness of the Complainant and its products. The Panel has found that these and the other disputed domain names are under common control. In these circumstances, the Panel finds that the Respondent registered all 428 disputed domain names with the Complainant in mind.

As regards use, the majority of the disputed domain names resolve or formerly resolved or redirected to websites that prominently display the CLARKS logo, offer footwear for sale, and give the false impression that they are affiliated with the Complainant. One disputed domain name formerly resolved to a webpage displaying PPC links for commercial gain. In view of these circumstances and the findings in section 6.2.B above, the Panel finds that by using these disputed domain names, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's websites, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's websites or of a product on the Respondent's websites within the terms of paragraph 4(b)(iv) of the Policy. The Panel notes that the use of many of these disputed domain names has now changed and that they no longer resolve to store websites but rather to webpages displaying service messages or they are passively held. In the Panel's view, these changes in use do not alter the above conclusion; if anything, they may be further indications of bad faith.

A minority of the disputed domain names does not appear to have resolved to an active website since their registration, either because they resolve to a webpage displaying a service message or they do not resolve, but that circumstance does not preclude a finding of use in bad faith. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). In the present dispute, the Complainant's CLARKS mark is well known. The disputed domain names incorporate that mark, in certain cases without the plural "s". The Panel has found that these disputed domain names are under common control with those that resolve or formerly resolved to websites giving the false impression that they are affiliated with the Complainant. In the Panel's view, the most likely intended use of the disputed domain names that do not resolve to active websites is the same as that of the disputed domain names that do or formerly did resolve to active websites. Accordingly, the Panel finds that the disputed domain names that have never resolved to an active website are also being used in bad faith.

Therefore, the Panel finds that all 428 disputed domain names have been registered and are being used in bad faith. The Complainant has satisfied the third element in paragraph 4(a) of the Policy.

## 7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules,

(a) the Panel orders that the following 428 disputed domain names be transferred to the Complainant: <botasclarkschile.com>, <botasclarksenmexico.com>, <botyclarks.com>, <clark-chile.com>, <clarkchile.com>, <clark-colombia.com>, <clarkmalaysia.com>, <clarkmilano.com>, <clarknederland.com>, <clarkparis.com>, <clarksaanbieding.com>, <clarks-amsterdam.com>, <clarksandalsshop.com>, <clarksantwerpen.com>, <clarks-ar.com>, <clarks-argentina.com>, <clarksargentiazapatos.com>, <clarksaustraliaau.com>, <clarksaustralia.com>, <clarksaustraliaoutlet.com>, <clarksaustraliasale.com>, <clarksaustraliashoes.com>, <clarksayakabi.com>, <clarksayakkabi.com>, <clarksayakkabi.com>, (<xn--clarksayakkab-gbc.com>), <clarks-belgie.com>, <clarksbelgie.com>, <clarksbelgique.com>, <clarksbolt.com>, <clarksbootscanada.com>, <clarksbootsireland.com>, <clarksbootsuk.com>, <clarksbrasil.com>, <clarksbruxelles.com>, <clarksbudapest.net>, <clarksbuenosaires.com>, <clarksbutik.com>, <clarksbutikk.com>, <clarks-buty.com>, <clarksbuty.com>, <clarksbutypolska.com>, <clarksca.com>, <clarkscanadaca.com>, <clarks-canada.com>, <clarkscanadaoutlet.com>, <clarkscanadaoutlets.com>, <clarkscanadas.com>, <clarkscapetown.com>, <clarkscashoes.com>, <clarkscdmx.com>, <clarkschaussures.com>, <clarkschile.net>, <clarkschiletiendas.com>, <clarkscipö.com> (<xn--clarkscip-8yb.com>), <clarkscipele.com>, <clarkscipobolt.com>, <clarkscipobudapest.com>, <clarks-cipo.com>, <clarkscipo.com>, <clarks-cl.com>, <clarkscl.com>, <clarksclearanceuk.com>, <clarksco.com.co>, <clarkscolombia-co.com>, <clarkscolombia.com>, <clarks-colombia.com.co>, <clarkscolombia.com.co>, <clarkscomau.com>, <clarkscopenhagen.com>, <clarkscoza.com>, <clarkscroatia.com>, <clarkscyprus.com>, <clarks-cz.com>, <clarksczechrepublic.com>, <clarksdames.com>, <clarks-danmark.com>, <clarksde.com>, <clarksdeutschlandsale.com>, <clarks-dk.com>, <clarksdubai.com>, <clarksdubaimall.com>, <clarksecuador.com>, <clarks-en-chile.com>, <clarksen-chile.com>, <clarksencolombia.com>, <clarksenmexico.com>, <clarksenucuz.com>, <clarks-espana.com>, <clarksespana.com>, <clarksespaña.com> (<xn--clarksespaa-beb.com>), <clarksespanaes.com>, <clarkseufrance.com>, <clarksfactoryireland.com>, <clarksfactoryoutletsingapore.com>, <clarksfactoryoutletusa.com>, <clarksfactoryoutletus.com>, <clarksfactorysale.com>, <clarksfactoryuk.com>, <clarks-finland.com>, <clarksfiona.com>, <clarksfootwearireland.com>, <clarksfootwearnz.com>, <clarksfrance.com>, <clarksfr.com>, <clarks-germany.com>, <clarksgermany.com>, <clarks-gr.com>, <clarks-greece.com>, <clarksgreece.com>, <clarksgreecegr.com>, <clarksgreece.net>, <clarksgreeceonline.com>, <clarkshelsinki.com>, <clarkshoENZ.com>, <clarkshoes-nz.com>, <clarkshoesnz.com>, <clarkshoesoutletusa.com>, <clarkshoesphilippines.com>, <clarkshoessingapore.com>, <clarkshoes-southafrica.com>, <clarkshoessouthafrica.com>, <clarkshrvatska.com>, <clarkshrvatskaoutlet.com>, <clarkshu.com>, <clarkshungaryhu.com>, <clarkshungaryshop.com>, <clarksinchile.com>, <clarks-india.com>, <clarksindiasale.com>, <clarksindonesiastore.com>, <clarksinschweiz.com>, <clarksireland.com>, <clarksireland.net>, <clarksirelandonline.com>, <clarksirelandshop.com>, <clarks-israel.com>,

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(b) the Complaint is denied as regards the disputed domain name <shopclarksshoe.com>. This decision is made without prejudice to the possibility of refiling a complaint regarding this disputed domain name.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: November 28, 2023