

ADMINISTRATIVE PANEL DECISION

EuroCoc s.r.o. v. Vincenzo De Riso, AutoCertified Ltd
Case No. D2024-5262

1. The Parties

The Complainant is EuroCoc s.r.o., Slovakia, represented by AMAR GOUSSU STAUB Selas, France.

The Respondent is Vincenzo De Riso, AutoCertified Ltd, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <eurococ.org> (the “Disputed Domain Name”) is registered with Realtime Register B.V. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 20, 2024. On December 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On December 23, 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 (UNKNOWN (Not available from Registry)) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 23, 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 amended Complaint on December 28, 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 January 10, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 30, 2025. The Respondent sent an email communication to the Center on December 24, 2024. The Respondent did not submit a formal response. Accordingly, the Center notified the Respondent on February 5, 2025, that it would proceed to Panel Appointment.

The Center appointed Flip Jan Claude Petillion as the sole panelist in this matter on February 7, 2025. 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, EuroCoc s.r.o., is a Slovak company active in the business of European Certificates of Conformity for motor vehicles.

The Complainant is the owner of the following trademark:

EUROCOCC, European Union word mark No. 011272192 registered on March 22, 2013, in class 35.

The Complainant also claims to operate the domain names <eurococ.com> and <eurococ.eu>, which indeed appear to resolve to the Complainant's official website.

The Disputed Domain Name was registered on November 2, 2024. According to the Complainant's evidence, the Disputed Domain Name appeared to resolve to a website mimicking the Complainant's website and displaying both the Complainant's EUROCOCC trademark and logo. The Disputed Domain Name currently does not resolve to an active website.

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 Disputed Domain Name is identical to a trademark in which it claims to have rights.

The Complainant further claims that the Respondent has no legitimate interests in respect of the Disputed Domain Name as:

- the Respondent is a direct competitor of the Complainant;
- the Respondent has not acquired any trademark or service mark rights;
- the Respondent is making an unlawful commercial or unfair use of the Disputed Domain Name by operating a website that infringes upon the Complainant's rights.

Finally, the Complainant claims that the Disputed Domain Name was registered and is being used in bad faith. According to the Complainant:

- the Disputed Domain Name contains the trademark "EuroCoc" in its entirety. The mere registration of a domain name that is identical or confusingly similar to a well-known trademark by an unaffiliated entity may, in itself, create a presumption of bad faith;
- the Respondent's likely knowledge of the Complainant's rights;
- the operation of a website under the Disputed Domain Name, which is a close copy of the content of the Complainant's website, proves that the Respondent was aware not only of the Complainant's trademark but also of the websites it operated and the services it proposed.

B. Respondent

The Respondent did not officially reply to the Complainant's contentions. The Respondent sent an e-mail to the Center on December 24, 2024, in which it stated that "We choose to amend the Complaint" and provided contact details which did not match the name and postal address of the registrant provided by the Registrar. However, the e-mail address provided was the same as the e-mail of the registrant provided by the Registrar.

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.

Based on the available record, the Panel finds 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 EUROCOC mark is reproduced within the Disputed Domain Name, without any addition.

It is well established that generic Top-Level-Domains ("gTLDs"), here ".org", may be disregarded when considering whether the Disputed Domain Name is confusingly similar to a trademark in which the Complainant has rights.

Accordingly, the Disputed Domain Name is identical to the Complainant's EUROCOC mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. 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 notes that the Respondent has not apparently been commonly known by the Disputed Domain Name, and that the Respondent does not seem to have acquired trademark or service mark rights. According to the information provided by the Registrar, the Respondent is "Vincenzo De Riso, AutoCertified

Ltd". The Respondent's use and registration of the Disputed Domain Name was not authorized by the Complainant.

Fundamentally, a respondent's use of a domain name will not be considered "fair" if it falsely suggests affiliation with the trademark owner. The correlation between a domain name and the complainant's mark is often central to this inquiry. Generally speaking, UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1. The Panel finds that this applies in the present case.

Beyond looking at the domain name and the nature of any additional terms appended to it, UDRP panels assess whether the overall facts and circumstances of the case, and the absence of a response, support a finding of fair use or not. [WIPO Overview 3.0](#), (see sections 2.5.2 and 2.5.3 of the [WIPO Overview 3.0](#)).

According to the Complainant's evidence, the Disputed Domain Name appeared to resolve to a website mimicking the Complainant's website and displaying both the Complainant's EUROCOC trademark and logo. The Panel finds that this does not amount to a bona fide offering of goods or services, or a legitimate noncommercial or fair use of the Disputed Domain Name. Moreover, the Respondent does not accurately and prominently disclose its (absence of) relationship with the Complainant. As a result, the Respondent fails the so-called "Oki Data test" for legitimate resellers, distributors or service providers of a complainant's goods or services.

The Panel observes that the Disputed Domain Name does not resolve to an active website anymore. In the Panel's view, this does not amount to any legitimate noncommercial or fair use or use in connection with a bona fide offering of goods and services either.

The Respondent had the opportunity to demonstrate its rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the prima facie case established by the Complainant has not been rebutted.

Based on the available record, 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.

As established above, the Complainant's has shown that the Disputed Domain Name resolved to a website mimicking the Complainant's website and displaying both the Complainant's EUROCOC trademark and logo. In the Panel's view, the circumstances of this case indicate that the Respondent has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant's trademark. [WIPO Overview 3.0](#), section 3.2.4.

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.

In the present case, the Panel finds that the Respondent must have been aware of the Complainant and its trademark rights when it registered the Disputed Domain Name as:

- the Complainant's EUROCOC trademark was registered more than 10 years prior to the Disputed Domain Name;
- the Disputed Domain Name is identical the Complainant's trademark;

- the Disputed Domain Name appeared to resolve to a website displaying both the Complainant's EUROCOC trademark and logo;
- the Respondent appears to be a direct competitor of the Complainant, offering identical or at least similar services through yet another website.

Given the totality of the circumstances discussed above, the current state of the Disputed Domain Name redirecting to an inaccessible web page does not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

Finally, the Respondent did not formally take part in the administrative proceedings although an informal communication shows that the Respondent was duly notified of the Complaint. According to the Panel, this serves as an additional indication of the Respondent's bad faith.

Based on the available record, 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 <eurococ.org> be transferred to the Complainant.

/Flip Jan Claude Petillion/

Flip Jan Claude Petillion

Sole Panelist

Date: February 21, 2025