

## **ADMINISTRATIVE PANEL DECISION**

Ecovacs Robotics Co., Ltd. v. Saeazar Luis Eduardo  
Case No. DAU2024-0022

### **1. The Parties**

The Complainant is Ecovacs Robotics Co., Ltd., China, represented by Chofn Intellectual Property (Chofn IP), China.

The Respondent is Saeazar Luis Eduardo, United States of America.

### **2. The Domain Name and Registrar**

The disputed domain name <ecovacsdeebot.com.au> is registered with GoDaddy.com, LLC.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 14, 2024. On August 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Ray Chen) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 26, 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 August 27, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .au Dispute Resolution Policy (the “Policy” or “.auDRP”), the Rules for .au Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .au Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 9, 2024. In accordance with the Rules, paragraph 5(a), the due date for Response was September 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 2, 2024.

The Center appointed Staniforth Ricketson as the sole panelist in this matter on October 4, 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**

Established in 1998 in Suzhou City, Jiangsu Province, China, Ecovacs Robotics Co. Ltd is now one of the world's largest manufacturers of cleaning appliances, mainly dedicated to the development, manufacture and sales of home service robots. According to the Complaint, the Complainant was the first company in the industry to obtain accreditation as a laboratory in China and has the world's only and most complete product line of home service robots. The Complainant carries on research and development, and sales of intelligent household equipment including home service robots, cleaning small home appliances and related parts, air purification robots, automatic window cleaning robots, intelligent home service robots, B2B commercial field, commercial service robots, and solar panel cleaning robots.

The Complainant is now a leader in the worldwide market for service robots, and its products are used in over 145 countries, including in Europe, the United States of America, the Pacific, and Australia. Since 2015, the Complainant's DEEBOT sweeping robot has been No. 1 in the Chinese market. According to the Wall Street Journal, in 2022 the Complainant's annual revenue was CNY 15,236 million, while its overseas business revenue has increased up to 26.5 percent on a year-to-year basis.

The Complainant has registered trade marks for the word ECOVACS (in plain and slightly stylised form) in a number of jurisdictions, including Australia, the United States of America, the European Union, and in other jurisdictions through International registrations under the Madrid system. It also has registered trade marks for the composite word DEEBOT PRO (with PRO encased in a box) in various countries, including Australia, under an international registration under the Madrid Protocol, and the word DEEBOT on its own is the subject of registration in Canada. In the case of Australia, the following registrations have been achieved: for the word ECOVACS in slightly stylised form under Trade Mark Number 2026677 in classes 7, 9 and 11, registered from July 31, 2019, and Trade Mark Number 2145247 in classes 3 and 21 registered from December 23, 2020. The word DEEBOTPRO is protected under International Registration Number 1689892 as from July 27, 2022, in class 7 which is specified as follows:

- Industrial robots; machines and apparatus for cleaning, electric; washing apparatus; machines and apparatus for carpet shampooing, electric; central vacuum cleaning installations; road sweeping machines, self-propelled; brushes for vacuum cleaners; vacuum cleaner attachments for disseminating perfumes and disinfectants; vacuum cleaner hoses; suction nozzles for vacuum cleaners; vacuum cleaners for industrial and commercial purposes; electric cleaning machines for industrial purposes; vacuum cleaners for industrial purposes; electric wax-polishing machines for industrial purposes; cordless sweepers, electric; machines and tools for clearing scrap materials; waste disposal units; electric washing machines for industrial purposes; floor scrubbing machines; dust filters and bags for vacuum cleaners with the following description of the mark:

The mark consists of the wording DEEBOT PRO wherein the wording PRO is in a rectangle located at the upper right of the wording DEEBOT.

There is evidence annexed to the Complaint which indicates that the Complainant's products under the marks ECOVACS and DEEBOT PRO have received recognition by consumers in various markets for their technical capacity and performance, and that ECOVACS was recognized as a well-known trade mark by a court in China in 2019, as well as receiving awards in several international industry exhibitions. The Complaint also annexes Google search results for ECOVACS and DEEBOT which all point to the Complainant and which record the relevant awards the Complainant has won and the exhibition reports.

The disputed domain name <ecovacsdeebot.com.au> has been registered in the name of the Respondent since at least July 17, 2024. The Complainant introduced evidence that the disputed domain name resolved to a website offering purportedly the Complainant's products for sale.

## 5. Parties' Contentions

### A. Complainant

The Complainant submits that the disputed domain name <ecovacsdeebot.com.au> is identical or confusingly similar to its registered trade marks ECOVACS and DEEBOT. In making this comparison, the Complainant submits that the suffix ".com.au" is to be disregarded (citing *Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#) in support), leading to the consequence that the disputed domain then comprises exactly the same spelling as the two registered trade marks. Accordingly, it submits that the requirements of para 4(a)(i) of the Policy are satisfied.

The Complainant then submits that the Respondent has not shown that it has any rights or legitimate interests in respect of the disputed domain: there has been no trade mark application in Australia by the Respondent for the words in the disputed domain name; the Respondent is not a distributor of the Complainant or its partner, and has never been directly or indirectly licensed by the Complainant to use either trade mark. Furthermore, there is no basis on which the Respondent's use of the disputed domain name could be a fair use thereof. Accordingly, the Complainant submits that the requirements of para 4(a)(ii) of the Policy have been satisfied.

Finally, the Complainant submits that the disputed domain name was registered or has been subsequently used in bad faith. In this regard, the Complainant notes that its trade marks ECOVACS and DEEBOT had been registered in Australia before the disputed domain name was registered; it points also to the visibility that the ECOVACS and DEEBOT brands had gained in the world, including in Australia. It therefore submits that the disputed domain name must have been registered with awareness of these trade marks and brands and this was therefore done in bad faith. It also points to several screen shots that resolve from the disputed domain name to websites advertising the Complainant's ECOVACS and DEEBOT products, and that submits this falls within the circumstance outlined in para 4(b)(iv) of the Policy, indicating not only registration but use of the disputed domain name in bad faith.

### B. Respondent

The Respondent has not submitted any response to the Complaint.

## 6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of the disputed domain name, the Complainant must demonstrate each of the following (these are cumulative requirements):

- (i) the disputed domain name is identical or confusingly similar to a name, trade mark 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 or subsequently used in bad faith.

When a respondent has defaulted, and in the absence of exceptional circumstances, paragraph 14(a) of the Rules requires the Panel to proceed to a decision on the Complaint. Paragraph 15(a) of the Rules then requires

the Panel to decide the dispute on the basis of the statements and documents that have been submitted and any rules and principles of law deemed applicable. Limited factual research of publicly available online resources may also be conducted by the Panel to confirm or elaborate upon matters alleged by the parties.

### **A. Identical or Confusingly Similar**

There are two parts to the inquiry required under paragraph 4(a)(i): the Complainant must demonstrate that it has rights in a name, trade mark or service mark, and, if so, the disputed domain name must be identical or confusingly similar to the trade mark.

The Complainant has provided evidence that it owns a number of national and International registered trade marks for the words ECOVACS and DEEBOTPRO, including three registered trade marks for these words in Australia. The Panel therefore finds that the Complainant has rights in the cited marks and therefore meets the first part of the requirement of paragraph 4(a)(i).

As to the issue of identity or confusing similarity, this requires a comparison and assessment of the disputed domain name itself with the Complainant's proved trade marks and names: see for example, *GlobalCenter Pty Ltd v. Global Domain Hosting Pty Ltd*, WIPO Case No. [DAU2002-0001](#). In undertaking this assessment in the present proceeding, it may first be observed that the addition of the second level domain suffix ".com.au" is to be disregarded as this is a functional requirement of the domain name system: see further *GlobalCenter Pty Ltd v. Global Domain Hosting Pty Ltd*, WIPO Case No. [DAU2002-0001](#). Furthermore, previous UDRP panels have held consistently that domain names are identical or confusingly similar to a trade mark for the purposes of the Policy "when the domain name includes the trademark, or a confusingly similar approximation, regardless of the other terms in the domain name" (*Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)). See also *Bayerische Motoren Werke AG ("BMW") v. Registration Private, Domains By Proxy, LLC / Armands Piebalgs*, WIPO Case No. [D2017-0156](#).

In the present proceeding, the substantive part of the of the disputed domain, the word "ecovacsdeebot" comprises the two words that are the subject of separate registered trade mark protection for ECOVACS and DEEBOT PRO. The only differences between these marks and the disputed domain are: (i) the Australian registered mark for ECOVACS is presented in a stylised format in which there are curves above and below the "E" and there is no cross-bar in the "A", and (ii) the DEEBOT mark has the suffix PRO in superscript framed in a rectangular box. These do not appear to be significant differences and, in any event, in several other jurisdictions the Complainant's marks are registered for the words ECOVACS (unstylized) (United States of America) and DEEBOT on its own (Canada). In combining these words in the disputed domain name, it can be concluded that the latter is confusingly similar to marks in which the Complainant has rights. This confusion arises in relation to both of the Complainant's marks, and is not to be avoided by combining them together in a composite domain name as has occurred here.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's registered trade marks and that this part of the paragraph 4(a)(i) of the Policy is satisfied.

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

Paragraph 4(c) of the Policy provides that the following circumstances may be situations in which a respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trade mark or service mark rights; or

- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a domain name.

The Complainant bears the onus of proving this requirement of the Policy, as is the case for each of the other elements. At the same time, panels have also consistently recognized the difficulties that arise where a party has to prove a negative, particularly in situations where much of the relevant information is in, or likely to be in, the possession of the respondent, rather than the complainant. In general, then, it is usually enough for a complainant to state a prima facie case against the respondent under this head, with the evidential burden then shifting to the respondent to rebut that case. See e.g., *GlobalCenter Pty Ltd v. Global Domain Hosting Pty Ltd.*, WIPO Case No. [DAU2002-0001](#); *Wal-Mart Stores, Inc. v. WalMart Careers, Inc.*, WIPO Case No. [D2012-0285](#); *AW Faber-Castell (Aust) Pty Ltd. v. Pen City Pty Ltd. / Atf Diblasi Jones Unit Trust*, WIPO Case No. [DAU2013-0018](#); *OSRAM GmbH. v. Mohammed Rafi/Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org*, WIPO Case No. [D2015-1149](#).

In the present case, the Respondent has not filed a Response or provided evidence as to any rights or legitimate interest that it may have in the disputed domain name. Accordingly, the Panel can only consider the Complaint and evidence that has been provided by the Complainant. The latter notes that there has been no trade mark application for the words of the disputed domain name in Australia by the Respondent. Furthermore, the Complainant states that the Respondent is not a distributor of the Complainant or its partner, and has never been directly or indirectly licensed by the Complainant to use either trade mark. The Panel also finds that the nature of the disputed domain name, incorporating two of the Complainant's trademarks, carries with it the clear suggestion of affiliation or association with the Complainant and could not therefore constitute a legitimate noncommercial or fair use of the disputed domain name by the Respondent.

In these circumstances, the Panel finds that the Complainant has established a clear prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name and finds that the requirements of paragraph 4(a)(ii) of the Policy are satisfied.

### **C. Registered or Subsequently Used in Bad Faith**

In contrast to the Uniform Dispute Resolution Policy, under paragraph 4(a)(iii) of the Policy the Complainant must establish that the disputed domain name has been either registered or subsequently used in bad faith by the Respondent. Paragraph 4(b) of the Policy then provides the following, non-limiting, list of circumstances which, if present, will be evidence of such registration and use of a domain name in bad faith:

- (i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to another person for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have registered the domain name in order to prevent the owner of a name, trade mark or service mark from reflecting that name or mark in a corresponding domain name; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business or activities of another person; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with the complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of that website or location or of a product or service on that website or location; or
- (v) if any of your representations or warranties as to eligibility or third party rights given on application or renewal are, or subsequently become, false or misleading in any manner.

In the present complaint, the Panel finds that the Complaint has put forward at least a prima facie case of the existence of circumstances indicating that the Respondent has registered and used the disputed domain name in bad faith.

The registration of the disputed domain name in the “.au” space will clearly present difficulties for the Complainant in registering domain names containing the words ECOVACS or DEEBOT in that space. This gives rise to the inference that the registration of the disputed domain name was made with the intention referred to in sub-paragraph 4(b)(ii). Given that both the ECOVACS and DEEBOT marks were registered in Australia some time before the registration of the disputed domain name, the visibility of the Complainant and its brands and products worldwide, and the subsequent use of the dispute domain name to resolve to an inherently misleading website, it is reasonable to infer that the registration of the disputed domain name was effected in bad faith in circumstances that fall within paragraph 4(b)(ii) and possibly (iii).

Moreover, the Respondent has used the disputed domain name purportedly to offer the Complainant’s goods while using the Complainant’s registered marks on a website that suggests the Respondent is the Complainant. This use falls squarely within the meaning of sub-paragraph 4(b)(iv) in that the Respondent is seeking to confuse consumers as to its association or links with the Complainant for the Respondent’s own commercial gain.

Accordingly, the Panel finds that the requirement of registration or use in bad faith under paragraph 4(a)(iii) of the Policy is established.

## **7. Decision**

For all the foregoing reasons, in accordance with Paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the domain name, <ecovacsdeebot.com.au>, be transferred to the Complainant.

*/Staniforth Ricketson/*

**Staniforth Ricketson**

Sole Panelist

Date: October 18, 2024