# Panel Decision for dispute CAC-ADREU-006580

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| Case number | **CAC-ADREU-006580** |
| Time of filing | **2014-01-07 10:20:02** |
| Domain names | **wolfskinsjacket.eu** |

## Case administrator

**Lada Válková (Case admin)**

## Complainant

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| Organization | **Jack Wolfskin Ausrüstung für Draussen GmbH & Co. KG** |

## Respondent

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| Organization | **Wolfskin apparels co. ltd** |

INSERT INFORMATION ABOUT OTHER LEGAL PROCEEDINGS THE PANEL IS AWARE OF WHICH ARE PENDING OR DECIDED AND WHICH RELATE TO THE DISPUTED DOMAIN NAME

The panel is not aware of any related proceedings.

FACTUAL BACKGROUND

1. The Complainant
The Complainant is one of the leading producers of outdoor and sporting apparel and equipment in Germany and Europe. For more than 25 years, the Complainant has been dedicated to the production and sale of the aforementioned goods and has, thus, required reputation for high-quality innovative products in Germany and Europe. The product portfolio of the Complainant covers all kind of outdoor equipment, especially clothing, footwear and headgear. All goods of the Complainant are labelled with the trademark “Jack Wolfskin”.
The Complainant offers its products in several web-shops under Domains with the element “Jack Wolfskin”, inter alia “jack-wolfskin.de” and “jack-wolfskin.com”. The Complainant is running worldwide approximately 4000 retail outlets in the specialized outdoor and sports equipment trade and more than 600 Jack Wolfskin franchise stores.
The Complainant owns numerous trademark registrations containing the designations “Wolfskin” and Jack Wolfskin, inter alia the Community trademark registration 2756500 “Wolfskin” with a priority of 27.06.2002 which is inter alia registered for clothing, footwear and headgear in class 25.

2. Respondent
The Respondent is the registered owner of the domain “wolfskinsjacket.eu”. The Respondent uses the domain for commercial purposes. As apparent from the website of “wolfskinsjacket.eu the Respondent operates under the disputed domain name a web shop offering clothing. However, there is no indication that the Respondent owns any trademark, tradename or other rights in the designations “Wolfskin” or “Jack Wolfskin”. The Respondent has no rights or legitimate interests in respect of the domain name. There is no relationship between the Respondent and the Complainant. Neither is the Respondent a licensee of the Complainant nor has the Respondent otherwise obtained any authorization to use the trademark and/or tradename “Jack Wolfskin” respectively “Wolfskin”. The Complainant has nothing to do with the Respondent. In particular, the Respondent is not an authorized dealer of the Complainant. The Complainant must assume that the products labelled with the mark “Jack Wolfskin” offered in the webshop under the domain “wolfskinsjacket.eu” are counterfeits. Moreover, the “layout” of “wolfskinsjacket.eu” is similar compared to the typical online-shop of the Complainant. Additionally, the Respondent uses (again unauthorized) pictures from the website of the Complainant, showing models of the complainant, wearing “Jack Wolfskin” clothing articles. Moreover, the Respondent uses wordings like for example “Jack Wolfskin Onlineshop”, pretending to be an official dealer of the Complainant.
The Respondent, thus, creates the false impression that the website under “wolfskinsjacket.eu” is operated by the Complainant or a person connected to the Complainant. Neither is the case. The Complainant has nothing to do with the website “wolfskinsjacket.eu” and/or the offer submitted on this domain. Moreover, the Respondent was the owner of the website under “cheapjackwolfskin.eu” and the Complainant concluded already successful proceedings against the Respondent where as a result the domain name

cheapjackwolfskin.eu was transferred to the Complainant (decision dated 25/02/2013, ADR case no: 06449). Moreover, he is also the owner of the Domain “jack-wolfskinsjacket.eu” with an identical offer. The Complainant has started proceedings also against this Domain on a parallel basis.

A. COMPLAINANT

According to Article 22 (1) (a) of the Commission Regulation (EC) 874/2007 an ADR procedure may be initiated by any party where the registration is speculative or abusive within the meaning of Article 21 of this Commission Regulation. Article 22 (11) states that if the ADR panel finds that the registration is speculative or abusive as defined in Article 21, the domain name shall be transferred to the Complainant if the Complainant applies for this domain name and satisfies the general eligibility criteria set out in Article 4 (2) (b) of Regulation (EC) No. 733/2002. The afore-mentioned prerequisites are fulfilled in the case at issue.

1. The domain name is confusingly similar to the trademarks of the Complainant.
The domain name “wolfskinsjacket.eu” is nearly identical to the aforementioned trademarks registered for the Complainant. The domain name “wolfskinsjacket.eu” is dominated by the element “wolfskins”. The additional element “jacket” is obviously descriptive for the offer on the domain in dispute (inter alia jackets). The signs “wolfskins” and “Wolfskin” respectively “Jack Wolfskin” are nearly identical. Therefore, the signs for comparison are nearly identical as far as their distinctive components are concerned and, thus, confusingly similar.

2. The Respondent has no rights or legitimate interest in respect of the domain name
The Respondent has neither rights nor a legitimate interest in respect of the domain name, nor is his name “Wolfskin”, nor is he a licensee of the Complainant nor has he been otherwise authorized to apply for or to use the domain name “wolfskinsjacket.eu”.

3. The domain name was registered and is being used in bad faith
The Respondent has registered the domain name “wolfskinsjacket.eu” in bad faith. It follows from the foregoing that the domain name “wolfskinsjacket.eu” was registered exclusively for the purpose of exploiting the good reputation of the Complainant and its trademark and tradename “Wolfskin” respectively “Jack Wolfskin”. The Respondent intentionally attempts to attract for commercial gain by leading internet users to the Respondent’s web-shop by creating a likelihood of confusion with the Complainant’s marks and the trade name “Wolfskin”. The web-shop operated under the domain leads internet users to the conclusion, the Complainant would be the operator of the online-shop and the seller of the products distributed on the domain, or, at least, the Respondent would be affiliated with the Complainant. Furthermore, the Complainant assumes that the products labelled with the trademark “Jack Wolfskin” offered in the web-shop are counterfeits. Additionally, there is no registration information about the Respondent on the website under “wolfskinsjacket.eu”.

B. RESPONDENT

The Respondent did not file any response.

DISCUSSION AND FINDINGS

According to Art 21 No. 1 of the Regulation (EC) No. 874/2004 of April 28, 2004, a registered domain name shall be subject to revocation where that name is identical or confusingly similar to a name in respect of which a right is recognised or established by national and/or Community law, such as the rights mentioned in Article 10(1), and where it has been registered by its holder without rights or legitimate interest in the name or has been registered or is being used in bad faith.

1. Complainant is proprietor of, inter alia, the Community trademark registration No. 2756500 “Wolfskin” with a priority of 27.06.2002 being registered inter alia for clothing, footwear and headgear in class 25.

2. The trademark of Complainant and the domain name in question only differ in the additional element “jacket” which is a generic word and descriptive for goods for which the Complainant´s mark is registered. The addition of such purely descriptive elements does not have a relevant influence on the similarity of signs or on the distinctiveness of the main element “Wolfskin” which clearly carries the weight of the designation in the domain name. This is widely acknowledged in the case law of panelists in .eu ADR proceedings, see inter alia Avery Dennison Corporation v. Dotasterisk Ltd, CAC 5126, <averygraphics.eu>. Accordingly, the disputed domain name is confusingly similar to the registered trademark of the Complainant.

3. The domain name has been registered by the Respondent without rights or legitimate interest in the name since neither a right nor a legitimate interest in accordance with article 21 No. 2 of the Regulation (EC) No. 874/2004 of April 28, 2004 was demonstrated by the Respondent or is otherwise apparent.

4. Therefore, the panel must not examine whether or not the domain name has been registered or is being used in bad faith in

accordance with article 21 No.1(b), No. 3 of the Regulation (EC) No. 874/2004 of April 28, 2004.

5. The Complainant satisfies the eligibility criteria set out in article 4 (2) (b) of Regulation (EC) No 733/2002.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that the domain name WOLFSKINSJACKET.EU be transferred to the Complainant.

## PANELISTS

| Name | **Dietrich Beier** |
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DATE OF PANEL DECISION 2014-01-07

## Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: WOLFSKINSJACKET.EU

II. Country of the Complainant: Germany, countries of the Respondent: Germany, Italy.

III. Date of registration of the domain name: 23 October 2012.

IV. Rights relied on by the Complainant (Art. 21 (1) Regulation (EC) No 874/2004) on which the Panel based its decision:
1. Word trademark registered for the European Community, reg. No. 2756500, for the term Wolfskin, filed on June 27, 2002, registered on October 21, 2004 in respect of goods and services in classes 18,20, 22,25,39,41.

V. Response submitted: No.

VI. Domain name is confusingly similar to the protected right of the Complainant.

VII. Rights or legitimate interests of the Respondent (Art. 21 (2) Regulation (EC) No 874/2004):
1. No.
2. No rights or legitimate interests were demonstrated or are apparent.

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
Must not be decided since neither a right nor a legitimate interest in accordance with article 21 No. 2 of the Regulation (EC) No. 874/2004 of April 28, 2004 was demonstrated by the Respondent or is otherwise apparent.

IX. Other substantial facts the Panel considers relevant: None.

X. Dispute Result: Transfer of the disputed domain name.

XI. Procedural factors the Panel considers relevant: None.

XII. Is Complainant eligible? Yes.