Panel Decision for dispute CAC-ADREU-008276

Case number	CAC-ADREU-008276
Time of filing	2022-03-30 14:03:18
Domain names	valentini.eu

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	Azienda Agricola Valentini s.s. Società Agricola

Respondent

Organization	Stig Valentini

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 other legal proceedings which are pending or decided and which relate to the disputed domain name.

FACTUAL BACKGROUND

The Complainant, AZIENDA AGRICOLA VALENTINI SS SOCIETÀ AGRICOLA, is a historic Italian company in Loreto Aprutino (Abruzzo, Italy), recognized by the Italian Union of Chambers of Commerce as one of the 150 oldest companies in Italy and whose activity has been documented since 1650.

The Complainant has proven to be the owner of the AZIENDA AGRICOLA VALENTINI SS SOCIETÀ AGRICOLA and AZIENDA AGRICOLA VALENTINI marks.

The Complainant is inter alia the owner of:

European Union trademark AZIENDA AGRICOLA VALENTINI SS SOCIETÀ AGRICOLA (device) Registration No. 018029085, registered on July 19, 2019, claiming Italian seniority dating from February 26, 2008;

European Union trademark AZIENDA AGRICOLA VALENTINI (device) Registration No. 018029082, registered on July 19, 2019, claiming Italian seniority dating from February 26, 2008.

The disputed domain name was registered by the Respondent on August 29, 2006.

The Complainant's trademark registrations postdate the registration of the disputed domain name.
However, the Complainant's pre-existing rights, recognized according to Article 10 of EC Regulation No. 874/2004, long predate the registration of the disputed domain name.

The disputed domain name has never been used since its registration (i.e. August 29, 2006), and has always displayed a blank page.

A. COMPLAINANT

The Complainant contends:

That the disputed domain name reproduces in its entirety the most distinctive part of the complainant's trademarks, i.e. VALENTINI;

That the Respondent is not commonly known by the domain name;

That the Respondent has no rights to the domain name, has no relationship with the Complainant and has never been authorized to use the Complainant's trademarks by the Complainant;

That the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain;

That the Respondent has registered the domain name in bad faith within the meaning of point (b) of paragraph 1 for the following reasons:

the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name to the holder of a name in respect of which a right is recognised or established by national and/or Community law or to a public body; and the domain name has been registered in order to prevent the holder of such a name in respect of which a right is recognised or established by national and/or Community law, or a public body, from reflecting this name in a corresponding domain name, provided that the domain name has not been used in a relevant way for at least fifteen years from the date of registration.

B. RESPONDENT

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

DISCUSSION AND FINDINGS

To succeed in its Complaint, the Complainant must show that the requirements of Article 21(1) of the Commission Regulation (EC) No. 874/2004 have been complied with. That paragraph reads as follows:
"A registered domain name shall be subject to revocation, using an appropriate extra-judicial or judicial procedure, where that name is identical or confusingly similar to a name in respect of which a right is recognized or established by national and/or Community law, such as the rights mentioned in Article 10(1), and where it:
(a) has been registered by its holder without rights or legitimate interest in the name; or
(b) has been registered or is being used in bad faith."
In addition, Article 22(10) of the Regulation and Paragraph B10(a) of the ADR rules provide that:
"In the event that a Party does not comply with any of the time periods established by these ADR Rules or the Panel, the Panel shall proceed to a decision on the Complaint and may consider this failure to comply as grounds to accept the claims of the other Party".
The Complainant has provided sufficient evidence to show that it is the proprietor of trademark registrations for the names AZIENDA AGRICOLA VALENTINI SS SOCIETÀ AGRICOLA and AZIENDA AGRICOLA VALENTINI, and of pre-existing rights, recognized under Article 10 of EC Regulation No. 874/2004, which predate the registration of the disputed domain name.

The domain name <valentini.eu> reproduces in its entirety the most distinctive part of the complainant's trademarks, i.e. VALENTINI.

The Complainant has, therefore, satisfied the requirements of the first paragraph of Article 21(1).

The Complainant has further asserted that the Respondent is not known by the VALENTINI name and has no legitimate rights to or interests in the disputed domain name.

These assertions are not contradicted by the Respondent. Should the Respondent have rights or legitimate interests to the disputed domain name, the Panel assumes that it would have advised the Panel of the same. As no response was filed, the Panel therefore accepts that the Respondent does not have rights or legitimate interests to the disputed domain name.

The Panel here notes that the Respondent's name Stig Valentini appears to partially coincide with the disputed domain name. The disputed domain name may have been chosen for this reason.

If this was indeed the reason, given the circumstances of the present case, the Respondent could have easily shown that he has at the very least a competing right to the disputed domain name. In fact, it would have been sufficient for him to participate in this proceeding and document his rights by showing his identity card or passport.

However, in the absence of any submission on the issue from the Respondent, the Complainant has satisfied the requirements of Article 21(1)(a). It is therefore not necessary to examine the Complainant's assertion of the Respondent's bad faith.

This Panel notes however that the Complainant has provided sufficient arguments to also indicate the Respondent's bad faith in

registering and using the disputed domain name.

Specifically, it appears that the Respondent has not used the disputed domain name for about 15 years.
According to article 3. (b) (ii) COMMISSION REGULATION (EC) No 874/2004, this is an element from which bad faith, within the meaning of point (b) of paragraph 1, can be demonstrated.

DECISION

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

PANELISTS

Name	**Dr. Fabrizio Bedarida**

DATE OF PANEL DECISION 2022-03-28

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: valentini.eu

II. Country of the Complainant: Italy, country of the Respondent: Denmark

III. Date of registration of the domain name: 29 August 2006

IV. Rights relied on by the Complainant (Art. 21 (1) Regulation (EC) No 874/2004) on which the Panel based its decision:
1. combined trademark registered in EU, reg. No. 018029085, for the term AZIENDA AGRICOLA VALENTINI SS SOCIETÀ AGRICOLA registered on 19 July 2019 and claiming Italian seniority dating from February 26, 2008; in respect of goods and services in class 33
2. combined trademark registered in EU, reg. No. 018029082, for the term AZIENDA AGRICOLA VALENTINI registered on 19 July 2019 and claiming Italian seniority dating from February 26, 2008; in respect of goods and services in class 33
3. pre-existing rights (unregistered trademark and company name), recognized according to Article 10 of EC Regulation No. 874/2004.

V. Response submitted: No

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

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

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
1. Yes
2. Why: the domain name has not been used in a relevant way for at least fifteen years from the date of registration

IX. Other substantial facts the Panel considers relevant:

X. Dispute Result: Transfer of the disputed domain name

XI. Procedural factors the Panel considers relevant:

XII. [If transfer to Complainant] Is Complainant eligible? Yes