Panel Decision for dispute CAC-ADREU-008803

Case number	**CAC-ADREU-008803**
Time of filing	**2025-10-13 23:09:07**
Domain names	**VELASCA.EU**

Case administrator

Olga Dvořáková (Case admin)

Complainant

Organization	**Velasca S.r.l.**

Complainant representative

Organization	**DGRS Studio Legale**

Respondent

Name	**Zbigniew Sudol**

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 is an Italian company, founded in 2013, specialized in the production of handcrafted footwear and leather goods 100% Made in Italy, manufactured through the processing of high-quality materials as well as in the marketing and distribution of these products on a global scale.

The Complainant bases its Complaint among others on the following VELASCA trademarks:

- European Union trademark “VELASCA”, no. 011795804, filed on May 6, 2013, registered on August 26, 2013, for goods in classes 21, 25 and 26;

- European Union trademark “VELASCA”, no. 015453954, filed on May 19, 2016, registered on September 5, 2016, for goods in class 18;

- European Union trademark “VELASCA”, no. 018720208, filed on June 21, 2022, registered on January 14, 2023, for goods and services in classes 3, 5, 6, 8, 9, 11, 14, 16, 18, 20, 21, 22, 24, 25, 26, 32, 33, 35, 37, 40, 42 and 43;

- European Union trademark “VELASCA”, no. 018720214, filed on June 21, 2022, registered on November 15, 2022, for goods in classes 18 and 25.

The Complainant establishes its online presence through the domain name <velasca.com>, registered on May 7, 2011, which resolves to a website displaying information about the Complainant and its products.

The disputed domain name <velasca.eu> was registered on September 9, 2024 and resolves to a website offering products using the Complainant’s VELASCA trademark, while some photographs from this website seem to be identical to those created and published on the previous version of the Complainant’s website.

A. COMPLAINANT

The Complainant's contentions are the following:

The disputed domain name <velasca.eu> is (i) identical or at least confusingly similar to the Complainant's earlier trademark VELASCA as it reproduces exactly the trademark, (ii) that the Respondent lacks rights or legitimate interests in the disputed domain name for a number of reasons, namely that: (a) the Respondent was not authorized or licensed by the Complainant to register or use the disputed domain name, (b) the disputed domain name does not correspond to the name of the Respondent and, to the best of its knowledge, the Respondent is not commonly known as “VELASCA”, (c) the Respondent has not replied to the cease and desist letter sent in the name of the Complainant, (d) there is no fair or non-commercial use of the disputed domain name, considering the website corresponding to the disputed domain name offering products using the Complainant’s VELASCA trademark, while some photographs

from this website seem to be identical to those created and published on the previous version of the Complainant's website, and (iii) that the disputed domain name was registered or is being used in bad faith for a number of reasons, which can not be ignored, namely that: (a) the Complainant's trademarks "VELASCA are distinctive and well known all around the world, (b) the fact that the Respondent has registered and is using a domain name that is confusingly similar to the VELASCA distinctive signs indicates that the Respondent had knowledge of the Complainant's VELASCA trademarks at the time of registration of the disputed domain name, (c) if the Respondent had carried even a basic Google search in respect of the wording "VELASCA", especially in relation to shoes, the results would have yielded obvious references to the Complainant. This raises in the Complainant's view a clear inference of knowledge of the Complainant's VELASCA trademark on the part of the Respondent. This is a clear evidence of registration of the disputed domain name in bad faith in the Complainant's view, (d) the disputed domain name is not used for any bone fide offerings, as there are clear circumstances indicating that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website, by creating a likelihood of confusion with the Complainant's VELASCA marks as to the source, sponsorship, affiliation, or endorsement of his web site. This is confirmed, among others, according to the Complainant, by the fact that the users interested in ordering items by phone, have a phone number displayed on the website corresponding to the disputed domain name ("Order by: +1 020 384 6040") which coincides with the Complainant's contact phone number, but which is directed to the Respondent. Therefore, the Complainant alleges that the Respondent has registered and is using the domain name at issue in order to intentionally divert traffic away from the Complainant's web site and to gain advantage from Complainant's activity, investments and reputation, (e) the current use of the disputed domain name, which allows accessing to the website of the Respondent, causes great damages to the Complainant due to the misleading of their present clients and to the loss of potential new ones.

In light of the above, in the Complainant's view, it is clear that the Respondent's bad faith regarding the registration and use of the disputed domain name was established.

The Complainant requests that the disputed domain name be transferred to it.

B. RESPONDENT

The Respondent did not file a formal Response.

DISCUSSION AND FINDINGS

According to Article 4 (4) of the Regulation (EU) 2019/ 517 (hereinafter the "Regulation") and Paragraph B 11(d)(1) of the ADR Rules, the Complainant bears the burden of proving the following:

1. the disputed domain name is identical with or confusingly similar to a name in respect of which a right is established by the national law of a Member State and/or European Union law; and either
2. the domain name has been registered by the Respondent without rights or legitimate interest in the name; or
3. the domain name has been registered or is being used in bad faith.

The Complaint meets the requirements for the Panel to evaluate the Regulation requirements without breaching the Panel's duty to comply with the principles of good faith, fairness, due diligence and impartiality set forth by Paragraph B (5)(a) and (b) of the ADR Rules.

1. Identity or confusingly similarity

With respect to the first requirement under Article 4 (4) of the Regulation, namely the identity or confusing similarity of the disputed domain name with a name in respect of which the Complainant has a right, the Complainant has complied with this requirement by the fact of basing its Complainant among others on the following VELASCA European Union trademarks:

- European Union trademark "VELASCA", no. 011795804, filed on May 6, 2013, registered on August 26, 2013, for goods in classes 21, 25 and 26;

- European Union trademark "VELASCA", no. 015453954, filed on May 19, 2016, registered on September 5, 2016, for goods in class 18;

- European Union trademark "VELASCA", no. 018720208, filed on June 21, 2022, registered on January 14, 2023, for goods and services in classes 3, 5, 6, 8, 9, 11, 14, 16, 18, 20, 21, 22, 24, 25, 26, 32, 33, 35, 37, 40, 42 and 43;

- European Union trademark "VELASCA", no. 018720214, filed on June 21, 2022, registered on November 15, 2022, for goods in classes 18 and 25.

All these European Union trademarks have been registered some years before the date of registration of the disputed domain name.

Further, it is now necessary to evaluate whether the disputed domain name is identical or confusingly similar to the VELASCA mark. According to Paragraph B 1 (10) (i) A of the ADR Rules, the Complaint shall prove "*why the domain name is identical or confusingly similar to the name or names in respect of which a right or rights are recognised or established by national and/or European Union law*".

The Complainant states that the disputed domain name is identical or at least confusingly similar to the Complainant's earlier trademark VELASCA as it reproduces exactly the trademark.

The Panel agrees that the disputed domain name <velasca.eu> is identical to the Complainant's earlier VELASCA trademark as it incorporates entirely the Complainant's earlier VELASCA trademark. As such, the Panel finds that the Complainant has discharged its burden of proof that the disputed domain name is identical to a name in which the Complainant has rights.

2. The Respondent's lack of rights or legitimate interests / The Respondent's bad faith in the registration and use of the disputed domain name

(a) Lack of rights or legitimate interests

The Complainant has discussed both the requirements of Article 4.4 (a) and (b).

Bearing in mind the above, the Panel shall now evaluate the Complainant's arguments and evidence in support of: (i) the Respondent's lack of rights or legitimate interests and/or (ii) the Respondent's bad faith in the registration or use of the disputed domain name.

The Respondent had the opportunity to reply to the Complainant's further contentions but has decided not to do so.

With respect to the lack of rights or legitimate interests in the disputed domain name of the Respondent, the Complainant alleges that (a) the Respondent was not authorized or licensed by the Complainant to register or use the disputed domain name, (b) the disputed domain name does not correspond to the name of the Respondent and, to the best of its knowledge, the Respondent is not commonly known as “VELASCA”, (c) the Respondent has not replied to the cease and desist letter sent in the name of the Complainant, (d) there is no fair or non-commercial use of the disputed domain name, considering the website corresponding to the disputed domain name offering products using the Complainant’s VELASCA trademark, while some photographs from this website seem to be identical to those created and published on the previous version of the Complainant’s website.

The Panel shall take into consideration all the above circumstances, as well as the fact that the disputed domain name is identical to the Complainant’s VELASCA earlier trademarks.

Pursuant to Paragraph B11(e) of the ADR Rules, the following circumstances, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate the Respondent’s rights to or legitimate interests in the domain name:

(1) prior to any notice of the dispute, the Respondent has used the domain name or a name corresponding to the domain name in connection with the offering of goods or services or has made demonstrable preparation to do so;

(2) the Respondent, being an undertaking, organisation or natural person, has been commonly known by the domain name, even in the absence of a right recognised or established by national and/or European Union law;

(3) the Respondent is making legitimate and non-commercial or fair use of the domain name, without intent to mislead consumers or harm the reputation of a name in respect of which a right is recognised or established by national law and/or European Union law.

In the case at hand, based on the evidence available in the file, the Respondent was not authorized or licensed by the Complainant to register or use the disputed domain name, and it does not appear to be commonly known by the disputed domain name. The Respondent's name does not coincide with the disputed domain name and there is no other evidence in the case file that could lead to this conclusion. Moreover, for the reasons mentioned above, it is clear that the Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services. The registration of a disputed domain name identical to the VELASCA mark, and the use of it in relation to a website offering products using the Complainant’s VELASCA trademark, while some photographs from this website seem to be identical to those created and published on the previous version of the Complainant’s website, based on the evidence available in this file, cannot be considered a bona fide offering of goods or services, or a legitimate and non-commercial or fair use of the disputed domain name without intent to mislead consumers or harm the reputation of the VELASCA mark. On the contrary, through the disputed domain name the Respondent is impersonating the Complainant to mislead its consumers for some illegitimate purpose.

Accordingly, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The onus now shifts to the Respondent to rebut the assertion that the Respondent lacks rights or legitimate interests (see ”CAC .EU Overview 2.0”). The Respondent has failed to file a Response. Hence, the Panel considers that the Respondent failed to rebut the Complainant's arguments.

In light of the foregoing, the Panel is satisfied that the Complainant has discharged its burden of proof that the Complainant lacks rights or legitimate interests in the disputed domain name.

(b) Registration and use of the disputed domain name in bad faith

In view of the fact that the Complainant has successfully proved that the Respondent lacks rights or legitimate interests in the disputed domain name, it is not strictly necessary for the Panel to assess the Respondent's bad faith. However, the Panel has decided to briefly address also this matter.

Firstly, in consideration of the Respondent's behaviour, the Panel is convinced that the Respondent was aware of the Complainant's VELASCA trademark and business at the time of the registration of the disputed domain name. The composition of the disputed domain name, which consists entirely of the Complainant's VELASCA mark, being aware thus of this trademark, is evidence of bad faith registration. Furthermore, most of the circumstances listed under point 2. above show a malicious intention of the Respondent in the use of the disputed domain name. In particular, the use of the disputed domain name in relation to a website offering products using the Complainant’s VELASCA trademark, while some photographs from this website seem to be identical to those created and published on the previous version of the Complainant’s website, is evidence of use of the disputed domain name in bad faith.

Accordingly, the Panel finds that the Complainant has successfully proved that the disputed domain name has been registered and is being used in bad faith.

DECISION

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

PANELISTS

Name	**Delia-Mihaela Belciu**

DATE OF PANEL DECISION 2025-10-13

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: <velasca.eu>

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

III. Date of registration of the domain name: September 9, 2024

IV. Rights relied on by the Complainant (B(11)(f) ADR Rules) on which the Panel based its decision:

The Complainant based its Complaint among others on the following VELASCA trademarks:

- European Union word trademark “VELASCA”, no. 011795804, filed on May 6, 2013, registered on August 26, 2013, for goods in classes 21, 25 and 26;

- European Union word trademark “VELASCA”, no. 015453954, filed on May 19, 2016, registered on September 5, 2016, for goods in class 18;

- European Union word trademark “VELASCA”, no. 018720208, filed on June 21, 2022, registered on January 14, 2023, for goods and services in classes 3, 5, 6, 8, 9, 11, 14, 16, 18, 20, 21, 22, 24, 25, 26, 32, 33, 35, 37, 40, 42 and 43;

- European Union figurative trademark “VELASCA”, no. 018720214, filed on June 21, 2022, registered on November 15, 2022, for goods in classes 18 and 25.

V. Response submitted: No

VI. Domain name is identical to the protected rights of the Complainant

VII. Rights or legitimate interests of the Respondent (B(11)(f) ADR Rules):
1. No
2. Why: The Respondent was not authorized or licensed by the Complainant to register or use the disputed domain name, and it does not appear to be commonly known by the disputed domain name. The Respondent's name does not coincide with the disputed domain name and there is no other evidence in the case file that could lead to this conclusion. Moreover, the registration of a disputed domain name identical to the VELASCA mark, and the use of it in relation to a website offering products using the Complainant’s VELASCA trademark, while some photographs from this website seem to be identical to those created and published on the previous version of the Complainant’s website, cannot be considered a bona fide offering of goods or services, or a legitimate and non-commercial or fair use of the disputed domain name without intent to mislead consumers or harm the reputation of the VELASCA mark.

VIII. Bad faith of the Respondent (B(11)(e) ADR Rules):
1. Yes
2. Why: The Respondent was aware of the Complainant's rights in the trademark VELASCA when it registered the disputed domain name. This is evinced by various circumstances relating to the use of the disputed domain name. Accordingly, the registration of the disputed domain name, which incorporates identically the Complainant’s VELASCA mark, amounts to registration in bad faith. The Respondent has been using the disputed domain name in relation to a website offering products using the Complainant’s VELASCA trademark, while some photographs from this website seem to be identical to those created and published on the previous version of the Complainant’s website. These amounts are considered a use in bad faith.

IX. Other substantial facts the Panel considers relevant: N/A

X. Dispute Result: Transfer of the disputed domain name

XI. Procedural factors the Panel considers relevant: N/A

XII. If transfer to Complainant, is Complainant eligible? Yes