Decision for dispute CAC-UDRP-100664

Case number	CAC-UDRP-100664
Time of filing	2013-09-18 18:34:30
Domain names	trade-hapaglloyd.com

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	Hapag-Lloyd (U.K.) Limited

Complainant representative

Organization	TLT LLP

Respondent

Name	Rachel Irving

OTHER LEGAL PROCEEDINGS

None.

IDENTIFICATION OF RIGHTS

"Hapag-Lloyd" is a registered European Community trademark with registration number 5913918. It was registered on 25 February 2002 and is registered in, amongst others, classes 35 (which covers transhipment matters and goods distribution) and class 39 (which covers freight forwarding and storage of goods of all kinds).

Hapag-Lloyd AG is the registered owner of this trademark. The Complainant, Hapag-Lloyd (U.K.) Ltd, is a wholly-owned subsidiary of Hapag-Lloyd AG and has submitted a written confirmation of Hapag-Lloyd AG that it is duly authorised to rely upon the trademark for the purposes of this domain name dispute.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant, Hapag-Lloyd UK Limited ("Hapag-Lloyd") is a subsidiary of Hapag-Lloyd AG. Hapag-Lloyd AG is based in Hamburg and has origins dating back to 1847.

Hapag-Lloyd AG and its subsidiaries are a leading global liner shipping company which operates from 300 locations in 114

different countries, worldwide.

Hapag-Lloyd was incorporated in England and Wales on 15 January 1936 with company number 00309325.

Given the size and the history surrounding Hapag-Lloyd, it is a thoroughly established company and extremely well known throughout the world as a trusted and reputable business.

Over the years, Hapag-Lloyd AG and its subsidiaries have received numerous awards, including:
- 2013 Quest for Quality Award, awarded by Logistics Management Magazine;
- 2012 Ocean Carrier of the Year, awarded by Alcoa;
- 2012 Global Carrier of the Year, awarded by Hellmann Worldwide Logistics; and
- Excellence Award 2011, awarded by Eastman Chemical Company.

The domain name "Hapag-Lloyd.Com" was registered by the owners of Hapag-Lloyd on 8 August 1996. The disputed domain name "Trade-HapagLloyd.Com" was registered on 1 July 2013 by the Respondent.

Complainant contends that it is evident that the Respondent purposefully used Hapag-Lloyd's trademark to create the impression that the disputed domain name, and the website operated under the disputed domain name, were owned by or at least associated with Hapag-Lloyd.

Complainant contends that the Respondent seeks to trick users into thinking that Hapag-Lloyd is associated with its website operated under the disputed domain name (the "Site"). This encourages users to purchase products via the Site as they believe that a well known, reputable business, will execute the delivery of their products. The Respondent has gone to great lengths to convince users that this is the case by stating on the Site, for example:

"Hapag Lloyd is the safest way to buy and sell online. The Buyer checks the quality of the merchandise before autorizing the payment and allows the Seller to use a safe way of accepting payment"

"When Buyers and Sellers don’t know each other, they need a third-party they can trust to turn to. That's where Hapag-Lloyd comes in"

"Hapag Lloyd Delivery is open around-the-clock, ready to pick up and deliver your shipments…"

According to the Complainant, the Respondent has no legitimate interest in the Site or the disputed domain name as they are being used to defraud users into purchasing products that are never delivered. The Complainant has received numerous calls from users chasing delivery of their products. Hapag-Lloyd had to inform the users that the delivery of the products and the Site the user ordered the products from are not in any way associated with Hapag-Lloyd.

According to the Complainant, the disputed domain name was registered in bad faith as the sole purpose for its registration was and is to trick users into believing that they have arrived at a site which is owned by or associated with a reputable company i.e. the Complainant Hapag-Lloyd.

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Domain Name is confusingly similar to a trademark or service mark in which the complainant has rights (within the meaning of paragraph 4(a)(i)of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in

respect of the Domain Name (within the meaning of paragraph 4(a)(ii)of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the Domain Name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii)of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The Respondent prominently uses the well-known designation "Hapag-Lloyd" both as part of its domain name (admittedly without a hyphen and in combination with the descriptive word “trade”, but neither of these deviations is sufficient to prevent the domain name’s confusing similarity to Hapag-Lloyd’s trademark) and its corresponding website. The Panel finds that the disputed domain name is confusingly similar to Complainant's CTM cited above.

The Panel further finds that Complainant successfully submitted prima facie evidence that the Respondent has neither made any use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name, nor is commonly known under the disputed domain name. This prima facie evidence was not challenged by the Respondent.

From the website printouts produced by the Complainant it seems possible that the Respondent uses the disputed domain name to operate a fraudulent “escrow” website that should be taken offline as quickly as possible. Even if this should not be the case it is evident that the Respondent, by using the domain name, has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website as well as of the service offered on Respondent’s website (paragraph 4(b)(iv)of the Policy).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **TRADE-HAPAGLLOYD.COM**: Transferred

PANELLISTS

Name	**Dr. Thomas Schafft**

DATE OF PANEL DECISION 2013-10-21

Publish the Decision