Decision for dispute CAC-UDRP-100955

Case number	CAC-UDRP-100955
Time of filing	2015-03-25 12:14:18
Domain names	hapag-lloyd-cargos.com

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	Hapag-Lloyd

Complainant representative

Organization	TLT LLP

Respondent

Name	Abraham Collins

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

Complainant states, and provides evidence to support, that it is the owner of EU Reg. No. 005913918 for the mark HAPAG-LLOYD (registered November 8, 2005) for use in connection with, inter alia, "[c]learing of ships, namely clearing of ships with customs authorities." Complainant states that it is the registrant of the domain name disputed domain name <hapag-lloyd.com>, which was created on August 8, 1996. (However, the Panel's research indicates that this domain name was created on February 19, 2011.)

FACTUAL BACKGROUND

Complainant states that it "and its subsidiaries are a leading global liner shipping company which operates from 300 locations in 114 different countries, worldwide"; that it "was incorporated in England and Wales on 15 January 1936"; that it "is a thoroughly established company and extremely well known throughout the world as a trusted and reputable business"; and that it "and its subsidiaries have received numerous awards".

Complainant states, and provides evidence to support, that the disputed domain name was created on February 24, 2015. Complainant further states that "Respondent seeks to trick users into thinking that Hapag-Lloyd is associated with their site

(the Site) at the Infringing Domain." A printout of the website using the disputed domain name, as provided by Complainant, states, among other things: "Hapag LLoyd is the safest way to buy and sell online"; and "Hapag LLoyd Delivery is open around-the-clock, ready to pick up and deliver your shipments 24 hours a day, seven days a week, 365 days a year – including weekends and holidays."

PARTIES CONTENTIONS

No administratively compliant response has been filed.

Complainant's contentions are sparse and unsupported by citation to any authority. Complainant states simply that "Respondent seeks to trick users into thinking that Hapag-Lloyd is associated with their site (the Site) at the Infringing Domain"; that "Hapag-Lloyd has nothing to do with the Site, the Infringing Domain, or the Respondent"; that "Respondent has no legitimate interest in the Site or the Infringing Domain as they are being used to defraud users into purchasing products that are never delivered"; and that "The Infringing Domain 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. Hapag-Lloyd."

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Domain Name is identical or 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. The Panel accepts Complainant's request for this proceeding to be conducted in English, despite the Russian language of the registration agreement. Among other things, Complainant argued that English was appropriate because the Respondent's address is in London and "[t]he entire website at the Infringing Domain is written in English." Accordingly, conducting this proceeding in English is appropriate and also consistent with paragraph 4.3 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition, which states: "Recognizing the practical need which may arise for a preliminary determination of the language of proceeding prior to their appointment, panels have found that, in certain situations, where the respondent can apparently understand the language of the complaint (or having been given a fair chance to object has not done so), and the complainant would be unfairly disadvantaged by being forced to translate"

PRINCIPAL REASONS FOR THE DECISION

The Complainant has, to the satisfaction of the Panel, shown the Domain Name is identical or 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), because the disputed domain name contains Complainant's HAPAG-LLOYD trademark in its entirety plus two hyphens and the word "cargo." The hyphens are irrelevant and do nothing to eliminate any confusing similarity, and the word "cargo" is associated with Complainant's service and, therefore, only enhances any confusing similarity.

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). While Complainant's arguments on this point are minimal, Complainant has argued that "Hapag-Lloyd has nothing to do with the Site, the Infringing Domain, or the

Respondent. The Respondent has no legitimate interest in the Site or the Infringing Domain as they are being used to defraud users into purchasing products that are never delivered." Further, Respondent has failed to dispute this.

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). As with the foregoing elements of the UDRP, Complainant's arguments on this element are minimal. However, it is apparent that Respondent's use of the disputed domain name in connection with a website offering shipping services is likely to cause confusion, in violation of paragraph 4(b)(iv) of the UDRP.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **HAPAG-LLOYD-CARGOS.COM**: Transferred

PANELLISTS

Name	**Douglas M. Isenberg**

DATE OF PANEL DECISION 2015-05-12

Publish the Decision