Decision for dispute CAC-UDRP-100985

Case number	**CAC-UDRP-100985**
Time of filing	**2015-05-04 15:29:06**
Domain names	**uk-hlag.com**

Case administrator

Name	**Lada Válková (Case admin)**

Complainant

Organization	**Hapag-Lloyd**

Complainant representative

Organization	**TLT LLP**

Respondent

Organization	**Whois Privacy Protection Service Inc.**

OTHER LEGAL PROCEEDINGS

None of which the Panel is aware.

IDENTIFICATION OF RIGHTS

The Complainant relies upon the Community trade mark no EU008884769 for the word mark HLAG in classes 35, 36, 38, 39, 42 and 43. This mark was applied for on 25 February 2002 and proceeded to registration on 2 July 2003.

The trade mark is owned by the Complainant's parent company and evidence has been filed confirming that the Complainant is entitled to use the same.

FACTUAL BACKGROUND

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

The Complainant

The Complainant, Hapag-Lloyd UK Limited (Hapag-Lloyd), claims that it is a subsidiary of Hapag-Lloyd AG and provides evidence accordingly. Hapag-Lloyd AG is based in Hamburg and has origins dating back to 1847.

The ultimate owners of Hapag-Lloyd AG and its subsidiaries are the Albert Ballin consortium (77.96%, consisting of the City

of Hamburg, Kühne Maritime, Signal Iduna, HSH Nordbank, M.M.Warburg Bank and HanseMerkur) and the TUI AG (22.04%).

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.

Reputation

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:

(i) 2013 Quest for Quality Award, awarded by Logistics Management Magazine;
(ii) 2012 Ocean Carrier of the Year, awarded by Alcoa;
(iii) 2012 Global Carrier of the Year, awarded by Hellmann Worldwide Logistics; and
(iv) Excellence Award 2011, awarded by Eastman Chemical Company.

Abusive Registration

The Complainant claims the domain "hlag.com" was registered by the owner of Hapag-Lloyd on 04 October 2010. "uk-hlag.com" was registered on 14 April 2015 by the Respondent.

The Complainant contends it is inconceivable that at the time of registration, the Respondent did not know of the similarity between the disputed domain name and the Complainant's domain as the disputed domain name uses the Mark.

In fact, it is evident that the Respondent purposefully used Hapag-Lloyd's Mark fraudulently to impersonate a director of Hapag-Lloyd and to create the impression that the disputed domain name was owned by or at least associated with Hapag-Lloyd.

Anthony Manning (Mr Manning) is the Sales Director of Hapag-Lloyd and his email address is anthony.manning@hlag.com. The Respondent uses the email address anthony.manning@uk-hlag.com (the Infringing Address) in order to trick third parties into thinking that the Respondent is in fact Mr Manning.

The Respondent has used the Infringing Address to attempt to book air travel under Mr Manning's name through HKFS-TSI (the Agent) and has also provided fraudulent passport details to the Agent under the name Anthony Manning and various other fraudulent names.

The Respondent has also communicated directly with other employees of Hapag-Lloyd from the Infringing Address, pretending to be AM.

The Respondent has gone to great lengths to convince third parties and Hapag-Lloyd employees that it is Mr Manning. For example, the Respondent uses an email signature stating Mr Manning's name and role as Sales Director together with an address which corresponds to Hapag-Lloyd's office in Liverpool, England.

To reiterate, Hapag-Lloyd has nothing to do with the disputed domain name, the Infringing Address, or the Respondent. The Respondent has no legitimate interest in the disputed domain name or the Infringing Address as they are being used to defraud third parties.

According to the Complainant the disputed domain name was registered in bad faith as the sole purpose for its registration was and is to impersonate Mr Manning for fraudulent purposes and to induce third parties to believe that the disputed

domain name and the Infringing Address are owned by or associated with a reputable company i.e. 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 identical or confusingly similar to a trade mark 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.

At the time of the commencement of this proceeding, the owner of the record of the disputed domain name was Whois Privacy Protection Service Inc. Once notified of the Complaint, Registrar disclosed another owner for the disputed domain name Anthony Manning. The CAC offered the Complainant the option of amending its Complaint. The Complainant declined to do so. In the opinion of the Panel both the CAC and the Complainant acted properly in this respect (see RapidShare AG, Christian Schmid v. PrivacyAnywhere Software, LLC, Mikhail Berdnikov WIPO Case No D2010-0894 and CAC decision No. 100221).

PRINCIPAL REASONS FOR THE DECISION

In essence the Complainant contends that the disputed domain name (the "Domain Name") has been used to impersonate the Complainant. In particular it is claimed that the Domain Name has been used for an email address that has been used for emails sent by an individual or individuals for the purpose of fraudulently impersonating the Complainant's sales director in an attempt to book airline tickets.

The Panel accepts that the Domain Name is confusingly similar to the trade mark relied upon by the Complainant in that it incorporates that mark in its entirety in combination with the "uk" prefix (which is in matter of fact only geographical wording) and the ".com" TLD. The facts that the Complainant is a subsidiary of the owner of that mark and that the Complainant has shown that the Complainant is licensed to use that mark is sufficient for this to be a mark in respect of which the Complainant has rights for the purposes of the UDRP.

The Complainant has provided sufficient evidence in the form of copy emails to substantiate its claims of fraudulent impersonation and that it was for such a purpose that the Domain Name was registered. Where fraudulent impersonation of this sort has been shown, this is sufficient to justify both a finding of lack of rights or interests and of bad faith registration and use (See for example, National Westminster Bank plc v. Royal Bank of Scotland WIPO Case No. D2013-0123).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **UK-HLAG.COM**: Transferred

PANELLISTS

Name	**Matthew Harris**

DATE OF PANEL DECISION 2015-06-09

Publish the Decision