Decision for dispute CAC-UDRP-100986

Case number	CAC-UDRP-100986
Time of filing	2015-05-06 14:00:14
Domain names	tradesafe-hapaglloyd.com

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	Hapag-Lloyd

Complainant representative

Organization	TLT LLP

Respondent

Name	Stan Ladle

OTHER LEGAL PROCEEDINGS

No legal proceeding has been commenced or terminated in connection with the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant's parent company Hapag-Lloyd AG is the owner of the Community Trademark registration No. EU005913918 for HAPAG-LLOYD, which was filed on February 25, 2002 and registered on November 8, 2005, for services in classes 35, 36, 38, 39, 42 and 43.

The Complainant is entitled to use and rely upon the Community Trademark in accordance with a confirmation letter attached to the Complaint.

FACTUAL BACKGROUND

The Complainant was incorporated in England and Wales on 15 January 1936 and is a subsidiary of Hapag-Lloyd AG, a company based in Hamburg whose origins date back to 1847.

Hapag-Lloyd AG and its subsidiaries are a leading global liner shipping group of companies which operate from 300 locations in 114 different countries worldwide.

The Complainant's parent company Hapag-Lloyd AG is the owner of a Community Trademark registration for HAPAG-LLOYD,

that the Complainant is entitled to use according to a confirmation letter submitted as an annex to the Complaint (as indicated above).

The Complainant's parent company is also the owner of the domain name <hapag-lloyd.com>, which was registered on August 8, 1996 and is used to promote the Complainant's services.

The disputed domain name <tradesafe-hapaglloyd.com> was registered by the Respondent on April 18, 2015. At the time of the drafting of the decision, the Panel notes that the web site under the disputed domain name has been suspended. However, according to a screenshot submitted by the Complainant, the disputed domain name was previously pointed to a web site featuring the Complainant's logo and providing purported online escrow services.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS

A. COMPLAINANT

The Complainant contends that, given the size and the history surrounding it, the Complainant is a thoroughly established company and is extremely well-known throughout the world as a trusted and reputable business.

Therefore, the Complainant asserts that it is inconceivable that, at the time of registration, the Respondent did not know of the similarity between the disputed domain name and the trademark HAPAG-LLOYD.

The Complainant further states that the Respondent purposefully used the trademark HAPAG-LLOYD to create the impression that the disputed domain name and the web site to which it resolved was owned by, or at least associated with, the Complainant.

The Complainant claims that the Respondent is seeking to trick users into thinking that the Complainant is associated with the site published at the disputed domain name, encouraging users to purchase services from the Respondent and misleading them into believing that a well-known and reputable business will execute those services.

The Complainant alleges that the disputed domain name is part of an ongoing fraud in relation to which the Complainant has already filed several successful complaints before CAC, citing the case numbers 100645, 100664 and 100637.

The Complainant highlights that it has nothing to do with the Respondent's web site, the disputed domain name or the Respondent and points out that the Respondent has no legitimate interest in the disputed domain name and corresponding web site, as they are being used to defraud users into purchasing products that are never delivered.

The Complainant concludes that 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 the Complainant's reputable company.

B. RESPONDENT

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed 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

NO RIGHTS OR LEGITIMATE INTERESTS

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

1. The disputed domain name includes the registered trademark HAPAG-LLOYD in its entirety, with the mere deletion of the dash between the two words “Hapag” and “Lloyd” and the addition of a prefix constituted of the generic terms “trade safe” and of a hyphen. It is well established that to combine a trademark with generic terms is not sufficient to avoid confusion. Moreover, the generic terms “trade safe” are particularly apt to increase the likelihood of confusion as they are descriptive of services rendered by the Complainant. Therefore, this Panel, having verified the Complainant's legitimization and rights to the Community Trademark No. 005913918 for HAPAG-LLOYD, concludes that the Complainant has established rights to a trademark that is confusingly similar to the disputed domain name.

2. The Complainant has stated that the Respondent is not affiliated with or authorized by the Complainant in any way. The Respondent does not appear to have made use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services or any other legitimate use for non-commercial activities. On the contrary, it appears that the Respondent used the disputed domain name to misdirect consumers into believing that they were visiting a web site owned by or associated with the Complainant. Based on the evidence on records and considering that the Respondent has not submitted a Response, the Panel finds that the Complainant has made a prima facie case that the Respondent has no rights or legitimate interest in the disputed domain name.

3. As to the bad faith at the time of the registration, the Panel finds that, in light of the contents of the Respondent’s web site as highlighted by the screenshot attached to the Complaint, showing the Complainant’s logo and references to the Complainant’s company, the Respondent was clearly aware of the Complainant's rights and activity. The Panel finds paragraph 4(b)(iv) of the Policy to be applicable in this case since it is clear that the Respondent intentionally attempted to attract Internet users to its web site for commercial gain, by causing a likelihood of confusion with the trademark HAPAG-LLOYD as to the source, sponsorship, affiliation or endorsement of the Respondent’s web site and services. Therefore, the Panel concludes that the Respondent has registered and used the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	**Luca Barbero**

DATE OF PANEL DECISION 2015-06-15

Publish the Decision