Decision for dispute CAC-UDRP-100987

Case number	**CAC-UDRP-100987**
Time of filing	**2015-05-06 14:04:36**
Domain names	**safetrade-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

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

IDENTIFICATION OF RIGHTS

"Hapag-Lloyd" is a registered Community trademark with registration number 005913918 (hereinafter "the CTM"). It was filed on 25 February 2002 and registered on 8 November 2005 in, amongst others, classes 35 (which covers the purchasing, selling and marketing of transport services) and class 39 (which covers freight forwarding and storage of goods of all kinds).

Hapag-Lloyd AG is the registered owner of the CTM. However, the Complainant submitted evidence that it is entitled to use and rely upon the CTM.

FACTUAL BACKGROUND

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

The Complainant

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.

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.

The Complainant claims that over the years, Hapag-Lloyd AG and its subsidiaries have received numerous awards.

The Complainant contends that "Hapag-Lloyd.Com" was registered by the owners of Hapag-Lloyd on 08 August 1996. "safetrade-hapaglloyd.com" (the disputed domain name) was registered on 18 April 2015 by the Respondent.

It is inconceivable that at the time of registration, the Respondent did not know of the similarity between the disputed domain name and Hapag-Lloyd's CTM and domain name as the disputed domain name is extremely similar to the CTM (identical save for the omission of a hyphen).

In fact according to the Complainant, it is evident that the Respondent purposefully used Hapag-Lloyd's CTM to create the impression that the disputed domain name was owned by or at least associated with Hapag-Lloyd.

The Respondent seeks to trick users into thinking that Hapag-Lloyd is associated with the disputed domain name.

Furthermore, the Complainant claims it is clear that the Respondent's intention is to use the disputed domain name to run a website pretending to be the Complainant and thereby to encourage users to purchase services from the Respondent as they believe that a well-known, reputable, business will execute those services.

The disputed domain name is part of an ongoing fraud in relation to which the Complainant has already made several successful complaints.

To reiterate, Hapag-Lloyd has nothing to do with the disputed domain name or the Respondent. The Respondent has no legitimate interest in the disputed domain name and the Complainant believes that the intention of the Respondent is to use the disputed domain name to defraud users into purchasing products that will never be delivered.

Finally, the Complainant claims 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 the disputed domain name is 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 that 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 that the Respondent to has 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 that 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.

In its complaint the Complainant requested the language of the proceedings to be English, claiming that the language of the registration agreement is German. However, pursuant to Registrar's verification (uploaded to the online file case via nonstandard communication on 6 May 2015) the language of the registration agreement is English. Therefore, the panel finds that pursuant to paragraph 11(a) of the Rules the language of this proceeding shall be English.

No injustice will be caused to the Respondent if this dispute is being decided in English.

Therefore, the language of the proceedings is English.

PRINCIPAL REASONS FOR THE DECISION

REGARDING THE TRANSFER OF THE DOMAIN NAME

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

The Panel further finds that the Complainant successfully asserted that the Respondent purposefully uses Hapag-Lloyd's CTM to create the impression that the disputed domain name is owned by or at least associated with Hapag-Lloyd.

The Respondent does not have a legitimate interest in the disputed domain name. These assertions were not challenged by the Respondent.

From the website, which only contains links, it is clear that the Respondent, by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to his website, by creating a likelihood of confusion with Hapag-Lloyd's CTM as to the source, sponsorship, affiliation, or endorsement of its website as well as of the service offered on the Respondent's website.

These facts, including the absence of a Response, prove the bad faith of the Respondent.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	**Tom Heremans**

DATE OF PANEL DECISION 2015-06-17

Publish the Decision