Decision for dispute CAC-UDRP-102240

Case number	CAC-UDRP-102240
Time of filing	2018-11-30 09:45:23
Domain names	delubac.org

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	BANQUE DELUBAC ET CIE

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Thomas Carleton

OTHER LEGAL PROCEEDINGS

None of which the Panel is aware.

IDENTIFICATION OF RIGHTS

European trade mark n°6826135, for the word mark DELUBAC registered on November 10th 2008 in classes 9, 35, 36 and 41.

FACTUAL BACKGROUND

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

Founded in 1924 in France by Maurice Delubac, the Complainant is an independent financial institution providing specialised banking services.

The Complainant is the owner if several trademarks containing the term “DELUBAC”, including the European trade mark identified above.

The Complainant also owns the domain name <delubac.com> and uses it for its official website.

The disputed domain name <delubac.org> (the "Domain Name") was registered on August 16th 2018. It redirects to a

registrar parking page with commercial links.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have 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 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

The Complainant's registered trade marks is clearly recognisable in the Domain Name, which comprises that term combined with the ".org" general top level domain (gTLD). In the circumstances, the Domain Name is confusingly similar to a trade mark in which the Complainant has rights and paragraph 4(a)(i) of the Policy is satisfied.

The Panel also accepts that the most sensible reading of the Domain Name is as the Complainant's mark combined with the top level domain and accordingly this is a <[trademark].[gTLD case]>. As a consequence the Panel finds it difficult to conceive of any use of the Domain Name that would be legitimate under the Policy.

The Domain Name is being used in connection with the Registrar's pay per click parking site and the links displayed are clearly not taking advantage of any descriptive or generic reading of the Domain Name.

Further, the Panel finds by reason of the use to date and the nature of the Domain Name itself that it is more likely than not that the Domain Name has been registered and held for some purpose that takes unfair advantage of the trade mark rights of the Complainant.

Given this, the Panel finds that Respodent has no right or legitimate interest in the Domain Name (as to which see section 2.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition and also Supercell Oy v. Don Renne Case No. D2015-1145). The Complainant has thereby made out the requirements of paragraph 4(a)(ii) of the Policy.

Further, this is also sufficient for a finding that the Domain Name has been registered and is being used in bad faith (as to which see, for example, Match.com, LP v. Bill Zag and NWLAWS.ORG, WIPO Case No. D2004-0230). The Complainant has thereby made out the requirements of paragraph 4(a)(ii) and 4 (a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **DELUBAC.ORG**: Transferred

PANELLISTS

Name	**Matthew Harris**

DATE OF PANEL DECISION 2019-01-02

Publish the Decision