Decision for dispute CAC-UDRP-102236

Case number	CAC-UDRP-102236
Time of filing	2018-11-28 09:51:50
Domain names	delubach.com

Case administrator

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

Complainant

Organization	BANQUE DELUBAC ET CIE

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	milscorp

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

The Complainant owns, inter alia, European Union trademark DELUBAC with registration number 6826135, registered on November 10, 2008 for goods and services in classes 9,35,36 and 421 (the "Trademark").

FACTUAL BACKGROUND

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

The Complainant was founded in 1924 in France by Maurice Delubac, and is an independent financial institution providing specialized banking services under the Trademark.

The Respondent uses the disputed domain name for a company named "DELUBACH & CO BANK", which is the translation of the Complainant's statutory name, except with the addition of the letter "H" at the end of the term DELUBAC. According to the Complainant the Respondent translated the content of the section "Présentation" of the Complainant's official website and used it the section "About us" on the website to which the disputed domain name resolves (the "Respondent's website") to increase the likelihood of confusion by only changing factual elements. The Complainant further alleges that the

Respondent uses the disputed domain name in order to obtain personal information from the Internet users by pretending to provide customer access to online banking services.

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

a. The disputed domain name consists of the Trademark, with an additional "h" on the end. The generic top level domain ("gTLD") ".com" may be disregarded in the assessment of the similarity of the disputed domain name to the Trademark. The Panel finds that the addition of the letter "h" to the Trademark does not take away the similarity between the disputed domain name and the Trademark so that the disputed domain name is confusingly similar to the Trademark pursuant to paragraph 4(a)(i) of the Policy.

b. The Panel is satisfied that the Respondent has not been licensed or authorized to use the Trademark in the disputed domain name. The Panel further finds that the Respondent has made no use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor is it making a legitimate non-commercial or fair use of the disputed domain name, as the Respondent undisputedly tried to make Internet users believe that the Respondent's website is the official website of a commercial bank, while the Respondent undisputedly copied parts of the Complainant's website on the Respondent's website, and uses the Respondent's website for the purpose of obtaining Internet users' personal information (phishing). The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

c. The Panel finds that the Respondent's false representation through the Respondent's website as a commercial bank for the purpose of phishing, combined with the Respondent's hidden identity in the WHOIS register and the use on the Respondent's website of its false identity as "DELUBACH & CO", which undisputedly does not exist, constitute the Respondent's use of the disputed domain name in bad faith. The Panel is also satisfied that the disputed domain name was registered in bad faith as the disputed domain name was undisputedly selected by the Respondent as being confusingly similar to the Trademark, which as such was very distinctive when the Respondent registered the disputed domain name.

For the reasons stated above, the Panel finds that all three elements under the paragraph 4(a) of the Policy have been proved by the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **DELUBACH.COM**: Transferred

PANELLISTS

Name	**Alfred Meijboom**

DATE OF PANEL DECISION 2019-01-07

Publish the Decision