Decision for dispute CAC-UDRP-102242

Case number	CAC-UDRP-102242
Time of filing	2018-11-29 08:53:56
Domain names	delubach-llc.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	BANQUE DELUBAC ET CIE

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	milscorp ltd

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

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

The disputed domain name was registered on February 9, 2017, i.e. the Complainant's Trademark registration cited above predates the registration of the disputed domain name.

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 has used the disputed domain name for a website allegedly promoting the services of a company named "DELUBACH LLC". The website is more or less identical to a standard WordPress template and does not provide any specific information about "DELUBACH LLC" and/or its business. In the website's "Contact us" section the address information

provided is still identical to the template's generic default data. Only in the website's "Solution" section there have been added links redirecting the users to the domain name <theme-fusion.com>, where a forum website is being operated.

According to database searches performed by the Complainant a company named "DELUBACH LLC" does not exist.

The Complainant has recently initiated two other proceedings against the same Respondent with identical contact details, namely:

- CAC Case No. 102236 <delubach.com> (in which the Panellist has accepted the Complaint and ordered a transfer of the domain name); and

- WIPO Case No. D2018-2705 <delubaconline.com> (which is still pending at the date of this decision).

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 disputed domain name consists of the Trademark, with an additional "h" and the descriptive suffix "-llc", which is the well-known abbreviation of "limited liability company". The generic top level domain ".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 and the descriptive suffix "-llc" do 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.

The Panel further finds that the Complainant successfully submitted prima facie evidence that the Respondent has neither made any use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name, nor is commonly known under the disputed domain name. This prima facie evidence was not challenged by the Respondent.

Given the Respondent's use of the disputed domain name to redirect users to the forum website operated at <theme-fusion.com>, and also taking into account the Respondent's attempt to abuse the Complainant's brand for phishing purposes as described in the CAC Case No. 102236 <delubach.com> Panel decision, this Panel finds that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its

website or other on-line location, by creating a likelihood of confusion with the Complainant's Trademark as to the source, sponsorship, affiliation, or endorsement of its website or other on-line location. This is evidence of registration and use in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **DELUBACH-LLC.COM**: Transferred

PANELLISTS

Name	**Dr. Thomas Schafft**

DATE OF PANEL DECISION 2019-01-18

Publish the Decision