Decision for dispute CAC-UDRP-103175

Case number	**CAC-UDRP-103175**
Time of filing	**2020-07-17 11:07:35**
Domain names	**peilkan.com**

Case administrator

Name	**Šárka Glasslová (Case admin)**

Complainant

Organization	**Pelikan Vertriebsgesellschaft mbH&Co.KG**

Respondent

Name	**Davis Dolad**

OTHER LEGAL PROCEEDINGS

The Complainant states that public prosecution authorities in Germany and Turkey have been notified regarding fraud committed using the disputed domain name. The Panel does not consider it appropriate to suspend this proceeding pending an outcome of any criminal proceedings.

IDENTIFICATION OF RIGHTS

The Complainant relies on its registrations of the word mark "PELIKAN" for various stationery and other goods :
- in Germany no. 677564 registered on 14 June 1955 with application date 28 November 1942;
- as international mark no. 189548 designating various European countries, registered on 21 December 1955 with application date 16 December 1955;
- in the USA no. 71698747 on 17 September 1957 with application date 22 November 1955;
- in the EU, no. 006218631 on 1 March 2011 with application date 9 August 2007.

FACTUAL BACKGROUND

The Complainant carries on business under the mark "PELIKAN" and uses its domain name <pelikan.com> for its website and email.

The Respondent has used the disputed domain name <peilkan.com> to send emails purporting to be from staff of the Complainant to a customer in Turkey, thereby fraudulently obtaining substantial payments to bank accounts of the Respondent or its associates.

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

RIGHTS

It is clear that the Complainant has longstanding registered rights in the mark "PELIKAN". The disputed domain name is

confusingly similar to this mark, from which it differs only in the reversal of two letters and the addition of the generic top level domain suffix. The propensity of the disputed domain to confuse is demonstrated by the fraud that has been carried out using it.

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark in which the complainant has rights within the meaning of paragraph 4(a)(i)of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant confirms that it has not licensed the Respondent to use the disputed domain name and it is evident that the Respondent has no right to it or legitimate interest in using it.

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 disputed domain name has been used to carry fraud by impersonating the Complainant's employees, relying on the confusing similarity of email addresses comprising the disputed domain name with the Complainant's email addresses comprising the Complainant's domain name. This use of the disputed domain name is plainly in bad faith and it can be inferred that it was registered for the same purpose.

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

Disputed domain name almost identical to and readily confused with Complainant's mark and domain name. Respondent clearly has no rights or legitimate interests. Disputed domain name was used and registered in bad faith to obtain payments by impersonating Complainant's staff in emails sent to a Turkish customer of the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **PEILKAN.COM**: Transferred

PANELLISTS

Name	**Jonathan Turner**

DATE OF PANEL DECISION 2020-08-25

Publish the Decision