Decision for dispute CAC-UDRP-103358

Case number	CAC-UDRP-103358
Time of filing	2020-10-20 09:06:54
Domain names	AMANNAILERT.COM

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)

Complainant

Organization	Aman Group S.à.r.l

Complainant representative

Organization	HSS IPM GmbH

Respondent

Organization	Jamaican Jerk 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

Complainant is the owner of the international trademark registration no. 953150 “AMAN”, issued August 24, 2007, which is protected in various countries – including the EU – and covers various goods and services in international classes 03, 09, 16, 36, 39, 41, 43, and 44.

The disputed domain name was registered on July 22, 2020, i.e. the Complainant’s international trademark registration predates the registration of the disputed domain name.

FACTUAL BACKGROUND

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

Complainant is a luxury hotel and accommodation business with around 32 destinations in 20 countries. In 2018 Complainant was rated number one in the Top Luxury Hotel Brands by Travel Luxury Intelligence.

Complainant has recently announced a new hotel/residence in Thailand named AMAN NAI LERT BANGKOK, which will comprise of branded residences as well as a luxury hotel slated for completion in 2023. It will be located within the tropical

gardens of Nai Lert Park, Bangkok.

Consumers are accustomed to Complainant's "AMAN" mark being used in the context of the trademark as prefix followed by an identifier of a particular resort or property, such as

Aman Sveti Stefan, Montenegro
Amanzoe, Greece
Aman Le Melezin, France
Aman Venice, Italy
Amanyangyun, China
Aman Summer Palace, China
Amandayan, China
Amanfayun, China
Aman Tokyo, Japan

Complainant contends that Respondent is not affiliated with Complainant nor authorized by Complainant in any way to use the trademark "AMAN". Complainant does not carry out any activity for, nor has any business with the Respondent. Complainant asserts that Respondent has no rights or legitimate interests in respect of the disputed domain name, and that he is not related in any way to the Complainant's business.

The disputed domain name resolves to a parking page with commercial "pay per click" links.

Complainant contacted Respondent on September 17, 2020, through a cease and desist letter. Reminders were sent on September 22, September 28, and October 14, 2020, without receiving any answer from Respondent.

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 Panel finds that the disputed domain name is confusingly similar to Complainant's trademark cited above. The only differences between the disputed domain name and this trademark is the generic suffix "nailert", which clearly refers to the "Nai Lert" park in Bangkok and thereby to Complainant's newly announced "AMAN NAI LERT BANGKOK" hotel/residence.

The Panel finds that Complainant successfully submitted prima facie evidence that 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 Respondent making a legitimate non-commercial or fair use of the disputed domain name, nor is Respondent commonly known under the disputed domain name. This prima facie evidence was not challenged by Respondent.

In the absence of a Response, the Panel infers that Respondent had Complainant's trademark in mind when registering and using the disputed domain name as described above. Respondent’s use of the disputed domain name for a parking page with commercial links to monetize the domain name indicates that the disputed domain name was registered and is being used in bad faith within the meaning of paragraph 4(b)(iv) of the Policy, i.e. attempting to attract, for commercial gain, internet users to a web site by creating a likelihood of confusion with the Complainant's mark.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **AMANNAILERT.COM**: Transferred

PANELLISTS

Name	**Dr. Thomas Schafft**

DATE OF PANEL DECISION 2020-11-23

Publish the Decision