Decision for dispute CAC-UDRP-100170

Case number	**CAC-UDRP-100170**
Time of filing	**2010-06-08 17:29:47**
Domain names	**geha.info**

Case administrator

Name	**Tereza Bartošková (Case admin)**

Complainant

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

Respondent

Name	**Rick Sorentos GoldKey Corporation**

OTHER LEGAL PROCEEDINGS

No other legal proceedings are known to the Panel.

IDENTIFICATION OF RIGHTS

1. Germany – registered trademark 63781, word: GEHA
Application date: 10.05.1951
Registration date: 05.05.1953

2. Germany – registered trademark, 2010239, word: GEHA
Application date: 08.11.1991
Registration date: 27.02.1992

3. International Registration, 278647, word: GEHA
Countries: Austria, Bulgaria, Benelux, Belarus, Switzerland, Czech Republic, Germany, Egypt, Spain, France, Croatia, Hungary, Italy, Liechtenstein, Monaco, Macedonia, Poland, Portugal, Romania, Russia, Slovenia, Slovakia, Vietnam

Registration date: 20.01.1964

4. International Registration, 701010 GEHA
Countries: Austria, Benelux, Switzerland, Czech Republic, Egypt, Spain, France, Hungary, Italy, Korea, Poland, Portugal, Russia, Slovakia, Ukraine, Denmark, Finland, United Kingdom, Iceland, Norway, Sweden
Registration date: 17.08.1998

5. US trademark 79079864, word: GEHA (IR No. 1031337)

FACTUAL BACKGROUND

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

1. It results from the documents provided by the Complainant that the domain name was offered for sale until 20 May 2010. Furthermore on 8 June 2010 geha.info was still offered for sale on the Sedo marketplace.

2. Furthermore the disputed domain name reverted to a website directory active in the same field as the Complainant. It included sponsored links for comprehensive printer supply (“Druckerpatronen günstig – druckerzubehoer.de”; “Lexmark-Farbdrucker – www.buergel24.de/drucker” etc.).

Accordingly the disputed domain name was used as a “click-through” revenue generating site which provides income to the Respondent by inducing Internet users to click through sponsored links The intention behind the Respondent’s use of a domain name containing the Complainant’s trademark is merely to capture the Complainant’s customers who are seeking the Complainant’s products, and to re-direct them to other, competing, websites.

3. Former owner of domain name geha.info was Dariusz Herman, Himbselstrasse 12, 92259 Neukirchen. On 11 May 2010 Complainant sent Mr. Herman a warning letter, claiming cease and desist from using domain name geha.info, threatening legal action. The warning letter was served upon Mr. Herman on 20 May 2010. On the same day, the disputed domain name was transferred from Mr. Herman to Respondent.

Mr. Herman is known as a cyber squatter and has lost comprehensive UDRP and ccTLD ADR proceedings in the past (see Starwood Hotels & Resorts Worldwide, Inc. v. Dariusz Herman, WIPO Case No. D2008-1315; Bayerische Motorenwerke AG. v. Dariusz Herman, Herman DOMCREATE et co., WIPO Case No. DNAME2004-00001; Trustmark National Bank v. Dariusz Herman c/o Herman DOMCREATE, NAF Claim Number: FA0904001258182; Baccarat SA v Doreen Jungnickel/ Dariusz Herman Domcreate, www.registry.in/system/files/baccarat_0.pdf , baccarat.in).

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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

1. Respondent and Mr. Herman have registered geha.info for the purpose of selling and renting the domain name to the Complainant or to a competitor of the Complainant for a considerable value in excess of the Respondent’s documented out-of-pocket costs directly related to the domain name (para. 4 (b)i) Policy).

It is the clear practice of the Panels, to consider bad faith in cases in which a coined term is offered for sale to the broad

public on web pages or via reseller and internet auctions (easyjet.net, WIPO Case No. D 2000-0024; emi1897.com, WIPO Case No. D2000-0712; sizesunlimited.com, WIPO Case No. D2000-0013; eresolution.com, WIPO Case No. D2000-0110; louisvuiton.com, WIPO Case No. D2000-1115).

2. In addition Mr. Herman and Respondent have intentionally attempted to attract, for commercial gain, Internet users to its Web site or other on-line locations (para. 4 (b)iv) Policy).

Using a domain name to intentionally attract, for commercial gain, Internet users to a website by creating confusion with a complainant's mark is evidence of bad faith registration under the Policy, paragraph 4(b)(iv) (e.g., Compagnie Générale des Etablissements Michelin CGEM - Michelin & Cie, Michelin Recherche et Technique S.A. v. Horoshiy Inc., WIPO Case No. D2004-0752).

3. Finally Respondent committed cyber-flight. Cyber-flight means changing ownership of a domain name with intent to escape a current dispute. See, e.g. Prepadom v. Domain Drop S.A, WIPO Case No. Case No. D2006-0917; British Broadcasting Corporation v. Data Art Corporation / Stoneybrook, WIPO Case No. D2000-0683. Where found, cyber-flight also is indicative of bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **GEHA.INFO**: Transferred

PANELLISTS

Name	**Dr. Tobias Malte Müller**

DATE OF PANEL DECISION 2010-07-27

Publish the Decision