Decision for dispute CAC-UDRP-100667

Case number	CAC-UDRP-100667
Time of filing	2013-09-20 12:43:38
Domain names	transactions-hapaglloyd.com

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	Hapag-Lloyd (U.K.) Limited

Complainant representative

Organization	TLT LLP

Respondent

Organization	Hapag Lloyd

OTHER LEGAL PROCEEDINGS

The Panel is not aware of other proceedings.

IDENTIFICATION OF RIGHTS

The Complainant relies on the registered Community Trade Mark No. 5913918, the word mark 'Hapag-Lloyd' in classes 35,36,38,39,42 & 43 owned by Hapag-Lloyd AG. It also relies upon the goodwill and reputation arising from use of the name in trade since at least 1936 and says it is a well known mark.

FACTUAL BACKGROUND

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

The Complainant

The Complainant, Hapag-Lloyd UK Limited (Hapag-Lloyd) is a wholly owned subsidiary of Hapag-Lloyd AG. It is authorised by Hapag-Lloyd AG to use and rely on Community Trade Mark No. 5913918 (the 918 Mark).

Hapag-Lloyd AG is based in Hamburg and has origins dating back to 1847. The ultimate owners of Hapag-Lloyd AG and its subsidiaries are the Albert Ballin consortium (77.96%, consisting of the City of Hamburg, Kühne Maritime, Signal Iduna, HSH Nordbank, M.M.Warburg Bank and HanseMerkur) and the TUI AG (22.04%).

Hapag-Lloyd AG and its subsidiaries are a leading global liner shipping company which operates from 300 locations in 114 different countries, worldwide. Hapag-Lloyd was incorporated in England and Wales on 15 January 1936 with company number 00309325.

Hapag-Lloyd AG, is extremely well known throughout the world as a trusted and reputable business. It has rights arising from this use and reputation. Over the years, Hapag-Lloyd AG and its subsidiaries have received numerous awards, including:
2013 Quest for Quality Award, awarded by Logistics Management Magazine;
2012 Ocean Carrier of the Year, awarded by Alcoa;
2012 Global Carrier of the Year, awarded by Hellmann Worldwide Logistics; and
Excellence Award 2011, awarded by Eastman Chemical Company.

The Complainant relies on the 918 Mark and is duly authorised to rely upon the 918 Mark for the purposes of this Complaint.

"Hapag-Lloyd.Com" was registered by the owners of Hapag-Lloyd on 08 August 1996.

"Transactions-HapagLloyd.Com" (the Disputed Domain Name) was registered on 28 February 2013, by the Respondent.

The Respondent has the Disputed Domain Name resolving to a domain parking page and the Respondent is not using the Disputed Domain Name.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

It is inconceivable that at the time of registration, the Respondent did not know of the similarity between the Disputed Domain Name and Hapag-Lloyd's domain as the Disputed Domain Name uses the 918 Mark.

If the Respondent was to use the Disputed Domain Name it would create the impression that the Disputed Domain Name, and the website to which it resolves, was owned by or connected and associated with Hapag-Lloyd AG and the Complainant.

Hapag-Lloyd AG has no connection with the Disputed Domain Name or the Respondent. The Respondent has no legitimate interest in the Disputed Domain Name and the Respondent is not using the Disputed Domain Name.

The Disputed Domain Name was registered in bad faith. The Respondent has the Disputed Domain Name resolve to a domain parking page and the Respondent is not using the Disputed Domain Name but prevents the Complainant from using it for business purposes.

The Respondent's registration and use of the Disputed Domain Name is an Abusive Registration. The Complainant requests the Disputed Domain be transferred.

Since the Complaint was originally filed, it was amended to update the Respondent's details, since those details were initially hidden behind a privacy service. In support of its contention that the Disputed Domain Name was registered and is being used in bad faith, the Complainant also relies upon the fact that the Respondent falsely gave its name as "Hapag Lloyd" when from the Respondent's Hotmail email address, and all of the other factors mentioned in this Complaint, it is clear that the Respondent has no genuine connection with Hapag-Lloyd.

RESPONDENT:

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Disputed Domain Name is 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. In particular, the Panel is satisfied that the Complaint and other correspondence related to this case, was served by CAC by email to the Hotmail email address provided by the WHOIS information connected to the Disputed Domain Name and that the Respondent was properly served under the Rules.

PRINCIPAL REASONS FOR THE DECISION

This is a clear cut case of Abusive Registration. The addition of the generic word ‘transactions’ does not alter the fact that the Disputed Domain Name is confusingly similar to the Complaint’s well known trading name and registered trade mark. The Respondent has not come forward with any explanation for the selection of the Disputed Domain Name and the prima facie evidence is 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. Therefore prima facie the use made of it is without right or legitimate interest. The Respondent has also provided false details in the course of registration and this is further evidence of its registration in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **TRANSACTIONS-HAPAGLLOYD.COM**: Transferred

PANELLISTS

Name	**Victoria McEvedy**

DATE OF PANEL DECISION 2013-10-28

Publish the Decision