# Decision for dispute CAC-UDRP-100676

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| Case number | CAC-UDRP-100676 |
| Time of filing | 2013-10-11 15:41:02 |
| Domain names | PELCO-ONLINE.COM |

## Case administrator

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| Name | Lada Válková (Case admin) |

## Complainant

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| Organization | Pelco |

## Complainant representative

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| Organization | Nameshield (Laurent Becker) |

## Respondent

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| Organization | New Era Network Technology Co |

OTHER LEGAL PROCEEDINGS

The panel is not aware of any other pending proceedings with regard to the disputed domain name.

IDENTIFICATION OF RIGHTS

Complainant is, inter alia, proprietor of the International registration 828528 PELCO registered on March 16, 2004 valid in numerous countries in class 9.

FACTUAL BACKGROUND

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

PELCO, active in the Internet under www.pelco.com is an American-based security and surveillance technologies company, founded in 1957. PELCO was purchased by its current parent company, Schneider Electric, in 2007 and was incorporated into Schneider Electric's Building Automation business unit. PELCO products are globally distributed and frequently found in airports, malls, office buildings, factories, and on college campus. The Complainant owns several trademarks including the distinctive wording PELCO.The Complainant is also the owner of several commercial names all around the world since decades, and is also the owner of internet domain names, including these distinctive wording PELCO. The disputed domain name < pelco-online.com > has been registered on September 13, 2013. The Complainant states that the disputed domain name < pelco-online.com > is confusingly similar to its trademarks and branded goods PELCO ®.

In detail:

- The disputed domain name contains the Complainant's registered and widely known trademark PELCO ® in its entirety. But the word "online", in the Internet context, is devoid of any distinctive character and is not sufficient to render the disputed domain name different from the Complainant's trademark. If anything, it enhances the association with the Complainant's goods by creating an impression that the Complainant's goods can be purchased from the website to which the disputed domain name resolves. Indeed, the wording PELCO® is only known in relation to the Complainant. It has no meaning whatsoever in English or in any other language. A Google search on the wording PELCO® displays several results, related to the Complainant.
- According to the WIPO case no. D2003-0455, "Croatia Airlines d.d. v. Modern Empire Internet Ltd.", a Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP.In the present case, the Complainant states that the Respondent is not affiliated with him nor authorized by him in any way. The Complainant states that the Respondent has no right nor legitimate interest in the disputed domain name and he is not related in any way to his business. The Complainant does not carry out any activity for, nor has any business with the Respondent. By using of the website related with the disputed domain name, the Respondent creates a likelihood of confusion by pretending to be the Complainant. Indeed, the website is a phishing page of the Complainant's website www.pelco.com. Accordingly, the Respondent has no rights or legitimate interests to the disputed domain name.
- It is obvious that the Respondent was aware of the Complainant's widely-known trademark when registering the disputed domain name, as his website reproduces identically the Complainant's one. That increases considerably any risk of phishing. Given the distinctiveness of the Complainant's trademark and reputation it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's marks and uses it for the purpose of misleading and diverting Internet traffic. See for instance "Ferrari S.p.A v. American Entertainment Group. Inc", WIPO Case no. D2004- 0673. On this basis, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

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.

In accordance with paragraph 11 of the RUDRP, the Panel can determine the language of the proceeding otherwise having regard to the circumstances of the case. Since the website under the disputed domain name is identical to the English website of Complainant, the Panel, having considered the circumstances of this case, determines that Respondent must be knowledgeable of the English language and English shall be accordingly the language of the proceeding.

PRINCIPAL REASONS FOR THE DECISION

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A. The Complainant has established the fact that it has valid trademark rights for PELCO.

The Domain Name is confusingly similar to the PELCO mark, since the element “online” is a common descriptive term without any distinctiveness, and accordingly not being relevant to influence the overall impression of the designation in the Domain Name.

The Panel therefore considers the Domain Name in question to be confusingly similar to the trademark PELCO in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Respondent has no rights in the Domain Name since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks. Furthermore, the Respondent has no legitimate interest in the Domain Name since there is no indication that the Respondent is commonly known by the name “PELCO” nor that the Respondent is using the Domain Name in connection with a bona fide offering of related goods or services. The reproduction of Complainant´s website is not a bona fide offering of goods or services. Also a non commercial or fair use is not noticeable.

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the Domain Name.

C. Registered and Used in Bad Faith

The Respondent must have been well aware of the Complainant and its trademarks due to the fact that the website under the disputed domain name is a reproduction of Complainant´s website. The Complainant had not authorized the Respondent to make use of its mark. This Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular domain name without the Complainant's authorization.

In sum, the circumstances of this case clearly indicate that the Respondent registered the Domain Name primarily with the intention of attempting to attract, for commercial gain, Internet users to a potential website or other online locations, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of such potential website or location, or of a product or service on such website or location.

The Panel therefore considers the Domain Name to have been registered and used in bad faith in accordance with paragraph 4(a)(iii) of the Policy

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **PELCO-ONLINE.COM**: Transferred

## PANELLISTS

| Name | **Dietrich Beier** |
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DATE OF PANEL DECISION 2013-11-28

Publish the Decision