Decision for dispute CAC-UDRP-101024

Case number	**CAC-UDRP-101024**
Time of filing	**2015-07-23 11:31:23**
Domain names	**hlag-uk.com**

Case administrator

Name	**Lada Válková (Case admin)**

Complainant

Organization	**Hapag-Lloyd**

Complainant representative

Organization	**TLT LLP**

Respondent

Organization	**Perfect Privacy LLC**

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings.

IDENTIFICATION OF RIGHTS

According to the information provided, Complainant is a subsidiary of Hapag-Lloyd AG.

The parent company of Complainant owns Community Trademark HLAG with registration number 008884769, filed on 25 February 2002 and registered on 2 July 2003. Complainant is wholly owned by Hapag-Lloyd AG and is authorised to use and rely upon all trade marks registered to Hapag-Lloyd AG.

FACTUAL BACKGROUND

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

According to the information provided Complainant is a subsidiary of Hapag-Lloyd AG. Hapag-Lloyd AG is based in Hamburg and has origins dating back to 1847.

Hapag-Lloyd AG and its subsidiaries are a leading global liner shipping company which operates from 300 locations in 114 different countries, worldwide.

The disputed domain name <hlag-uk.com> was registered on 11 July, 2015.

According to the information provided by Complainant the disputed domain name was being used for fraudulent purposes. Respondent purposefully used Hapag-Lloyd's Mark fraudulently to impersonate a director of Hapag-Lloyd and to create the impression that the disputed domain name was owned by or at least associated with Hapag-Lloyd. Matthew Gillbanks (Mr Gillbanks) is a Director of Hapag-Lloyd and his email address is matt.gillbanks@hlag.com. Respondent uses the email address matt.gillbanks@hlag-uk.com (the Infringing Address) in order to trick third parties into thinking that Respondent is in fact Mr Gillbanks. Respondent has used the Infringing Address to contact another employee of Hapag-Lloyd in Malaysia, pretending to be Mr Gillbanks and ostensibly enquiring about a travel agency to use to book flights and hotels for a trip to Malaysia. We understand that the same email was also sent to other Hapag-Lloyd offices enquiring about the same thing. It is clearly Respondent's intention to attempt to book air travel and accommodation fraudulently under Mr Gillbanks's name.

Respondent has gone to great lengths to convince Hapag-Lloyd employees that it is Mr Gillbanks. For example, Respondent uses an email signature stating Mr Gillbanks's name and role as Director in the Customer Service team together with an address which corresponds to Hapag-Lloyd's office in Liverpool, England. It is clear from the content of Respondent's email that Respondent also intends to try to convince third parties that it is Mr Gillbanks and Respondent may have already tried to do so.

Complainant submits that Respondent has no legitimate interest in the disputed domain name as the Infringing Address is being used to defraud third parties.

According to Complainant the disputed domain name was registered and is being used in bad faith as the sole purpose was and is to impersonate Mr Gillbanks for fraudulent purposes and to induce third parties and Hapag-Lloyd employees to believe that the disputed domain name and the Infringing Address are owned by or associated with a reputable company i.e. Hapag-Lloyd.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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

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

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.

At the time of the commencement of this proceeding, the owner of the record of the disputed domain name was Perfect Privacy LLC. Once notified of the Complaint, Registrar disclosed another owner for the disputed domain name Thaddaeus Smith. Complainant preferred not to change the Respondent’s name in the Complaint based on the arguments of CAC decision No. 100221. Accordingly, the Panel finds the CAC followed the correct procedure in accordance with the Policy and the Rules and accepts the request of Complainant that the Complaint proceeds against Perfect Privacy LLC.

PRINCIPAL REASONS FOR THE DECISION

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In the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademark. Many UDRP decisions have found that a disputed domain name is identical or confusingly similar to a complainant's trademark where the disputed domain name incorporates the complainant's trademark or the principal part thereof in its entirety. The disputed domain name incorporates the entirety of the well-known HLAG trademark as its distinctive element. The Panel notes that Complainant has produced evidence that it has a valid license for using the HLAG trademarks. The addition of the common, descriptive and non-distinctive element "UK" in the disputed domain name is insufficient to avoid a finding of confusing similarity.

The Panel notes that the registration of the HLAG trademark predates the creation date of the disputed domain name.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interest in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use its trademark or to register the disputed domain name incorporating its mark. Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark of Complainant. Respondent is not commonly known by the disputed domain name nor has it acquired trademark rights. Complainant has no relationship with Respondent.

Respondent did not submit any response. Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. Complainant has rights in the HLAG trademarks. Respondent knew or should have known that the disputed domain name included Complainant's well-known trademark. The Panel notes that the disputed domain name was being used for obviously fraudulent purposes. This constitutes registration and use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **HLAG-UK.COM**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2015-09-02

Publish the Decision