Decision for dispute CAC-UDRP-101119

Case number	CAC-UDRP-101119
Time of filing	2015-11-24 10:43:54
Domain names	atesacarhire.com, ehicarhire.com, ehicars.com, ehicarservices.com, ehirentalcars.com, ehirecar.com

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	Enterprise Holdings, Inc.

Complainant representative

Organization	Harness, Dickey & Pierce, PLC

Respondent

Organization	Thompson Mart

OTHER LEGAL PROCEEDINGS

No legal proceeding has been commenced or terminated in connection with the disputed domain names.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the Community Trademark Nos. 000387241 for ATESA (figurative mark), registered on December 17, 2003, in International classes 12, 16, 35, 37 and 39; 008441263 for EHI (word mark), registered on January 28, 2010, in International classes 12, 35, 36, 37 and 39; 000036335 for E (figurative mark), in International classes 12, 36 and 39; and 000036343 for E (figurative mark), in International classes 12, 36 and 39.

The Complainant also owns the United States trademark registration No. 3856949 for EHI (word mark), registered on October 5, 2010, in International classes 12, 35, 36, 37 and 39.

The Complainant further owns the domain name <ehi.com>, registered on May 22, 1995, while the Complainant's subsidiary Autotransporte Turistico Espanol S.A. is the owner of the domain names <atesa.com>, registered on September 25, 1997, and <atesa.es>, registered on March 3, 1999.

FACTUAL BACKGROUND

The Complainant is a vehicle rental service provider founded in the United States in 1974. It provides daily car rental services throughout the United States, Canada, Ireland, Germany, Spain and the United Kingdom.

The Complainant purchased the Spanish car rental brand ATESA in 2011 and continues to use the trademark ATESA in Spain and the domain names <atesa.com> and <atesa.es> to redirect users to the Complainant's Spanish web site "www.enterprise.es".

The Complainant's trademark EHI is constituted of the acronym of the Complainant's name Enterprise Holdings, Inc. and the Complainant's domain name <ehi.com> resolves to a web site operated by the Complainant.

The Respondent registered the disputed domain name <atesacarhire.com> on October 3, 2014, the disputed domain names <ehicarhire.com>, <ehicars.com>, <ehicarservices.com> and <ehirentalcars.com > on October 24, 2015, and <ehirecar.com> on August 19, 2015.

The disputed domain name <atesacarhire.com> is pointed to a web site, available at "www.atesacarhire.com", offering car rental services and displaying a logo "Tipoa Car Hire". The disputed domain names <ehicarhire.com>, <ehicars.com>, <ehicarservices.com>, <ehirentalcars.com > and <ehirecar.com> are redirected to the web site "www.tipoa.com", offering the car rental services under the mark Tipoa. The domain name <tipoa.com> is registered in the name of "david tate" but the email address displayed in the WhoIs records (flights@stealthsurfer.com) is the same as the one used in the WhoIs details of the disputed domain names.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS.

COMPLAINANT.

The Complainant contends that the disputed domain name <atesacarhire.com> is confusingly similar to Complainant's registered trademark ATESA and that the disputed domain names <ehicarhire.com>, <ehicars.com>, <ehicarservices.com>, <ehirentalcars.com> and <ehirecar.com> are confusingly similar to Complainant's registered trademark EHI, as the disputed domain names incorporate the Complainant's trademarks in their entirety with the addition of descriptive terms, letters and the Top-Level suffix .com, which do not differentiate the resulting domain names from the Complainant's marks.

The Complainant states that the Respondent's use of the disputed domain names to promote car rental services competitive with those provided by the Complainant does not represent a bona fide offering of goods or services under Policy.

The Complainant also states that there is nothing in the WhoIs records of the disputed domain name that would indicate that the Respondent is commonly known by the disputed domain names or names corresponding to the disputed domain names. The Complainant further informs the Panel that it has not licensed or otherwise permitted the Respondent to use its ATESA, EHI and E marks in connection with car rental services or any other goods or services or to apply for any domain name incorporating the ATESA, EHI AND E marks.

The Complainant further asserts that, once a complainant makes a prima facie case that a respondent lacks rights and legitimate interests in the contested domain names, the burden shifts to Respondent to show that it does have rights or legitimate interests.

With reference to the bad faith requirement, the Complainant points out that the Respondent is deliberately using domain names that are confusingly similar to Complainant's marks to attract, for commercial gain, Internet users to its web sites, by creating a likelihood of confusion with Complainant's marks as to the source, sponsorship, affiliation or endorsement of its web sites and the services offered at such web sites.

RESPONDENT.

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain names are confusingly similar to trademarks 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 that the Respondent has no rights or legitimate interests in respect of the disputed domain names (within the meaning of paragraph 4(a)(ii)of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain names have been registered and are 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. The disputed domain names include the registered trademarks ATESA and EHI in their entirety, with the mere addition of the generic terms “car/s”, “hire”, “services”, “rental”, the letters “re” and the Top-Level suffix .com, which are insufficient to avoid a finding of confusing similarity under the first element of the UDRP. Moreover, since the Complainant provides car rental services under the trademarks ATESA and EHI, the Panel finds that the addition of the generic terms “car/s”, “hire”, “services” and “rental”, which are descriptive of the Complainant’s business, is particularly apt to enhance the likelihood of confusion.

2. The Complainant has stated that the Respondent is not affiliated with or authorized by the Complainant in any way. The Respondent has not made use of, or demonstrable preparations to use, the disputed domain names in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use since, based on the evidence on records, the disputed domain names have been pointed to web sites promoting car rental services competitive with those of the Complainant. In view of the above and considering that the Respondent has not submitted a Response, the Panel finds that the Complainant has made a prima facie case that the Respondent has no rights or legitimate interest in the disputed domain names.

3. As to the bad faith at the time of the registration, the Panel finds that, in light of the Complainant’s prior registration and use of the trademarks ATESA and EHI, also in the United States, where the Respondent is located, the Respondent could have been aware of the Complainant's trademark when it registered the disputed domain names. The incorporation of the marks in their entirety in the disputed domain names in combination with descriptive terms which expressly refer to the Complainant’s business, and the Respondent’s redirection of the disputed domain names to web sites promoting competitive services supports the finding that the Respondent was indeed aware of the Complainant’s marks and registered the disputed domain names with said trademarks in mind.

As to the use of the disputed domain names, as mentioned above, they have been pointed to web sites promoting car rental services competitive with those of the Complainant. The Panel finds that such use of the disputed domain names amounts to bad faith and that the Complainant has demonstrated that the Respondent intentionally attempted to attract for commercial gain Internet users to its web sites for commercial gain, by causing a likelihood of confusion with the Complainant’s marks as to the source, sponsorship, affiliation or endorsement of the web sites and services promoted therein according to paragraph 4(b)(iv) of the Policy.

The Panel also finds paragraph 4(b)(ii) of the Policy to be applicable in this case since the Respondent has prevented the Complainant from reflecting its trademarks in the disputed domain names and has engaged in a pattern of such conduct by registering 6 domain names confusingly similar to the Complainant’s marks.

Furthermore, the Panel also finds that the Respondent's use of the disputed domain names to divert users to web sites promoting competitive services is apt to disrupt the Complainant's business according to paragraph 4(b)(iii) of the Policy.

Therefore, the Panel concludes that the Respondent has registered and used the disputed domain names in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ATESACARHIRE.COM**: Transferred
2. **EHICARHIRE.COM**: Transferred
3. **EHICARS.COM**: Transferred
4. **EHICARSERVICES.COM**: Transferred
5. **EHIRENTALCARS.COM**: Transferred
6. **EHIRECAR.COM**: Transferred

PANELLISTS

Name	**Luca Barbero**

DATE OF PANEL DECISION 2016-01-07

Publish the Decision