

## **ADMINISTRATIVE PANEL DECISION**

Proman Expansion v. Carolina Rodrigues

Case No. DCO2022-0114

### **1. The Parties**

The Complainant is Proman Expansion, France, represented by Cabinet Beau de Lomenie, France.

The Respondent is Carolina Rodrigues, Panama.

### **2. The Domain Name and Registrar**

The disputed domain name <promanstaffing.co> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 7, 2022. On December 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 8, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 12, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on December 14, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on December 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 10, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 18, 2022.

The Center appointed Ezgi Baklaci Güلكokar as the sole panelist in this matter on January 23, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### 4. Factual Background

The Complainant Proman Expansion, a French Société par actions simplifiée, is a temporary employment and human resources Agency based in France. Through its subsidiaries and agencies, Complainant operates in 16 countries. The Complainant uses the trademark PROMAN starting from 1990. With an aim to expand the business across the United States of America ("US") the Complainant has purchased an American company in 2018; and the agencies of the Company changed their name to PROMAN STAFFING in 2022.

The Complainant owns numerous international trademarks and trademarks registered in France, European Union Intellectual Property Office ("EUIPO"), and Canada, consisting of or including PROMAN. *Inter alia*, the Complainant owns the following registrations: PROMAN (France reg. no. 1617815 (figurative)) registered on September 24, 1990, PROMAN AGENCES POR L'EMPLOI (International Registration: 1213155 (figurative)) registered on March 28, 2014, and PROMAN (EUIPO: 018501035 (figurative)) registered on October 13, 2021.

In addition, the Complainant owns many domain name registrations containing the trademark PROMAN for instance <proman-emploi.fr>, <promanemploi.fr>, <promangroup.com>, <promansearch.com>, <proman-uk.com>, and <promanstaffing.com> (registered on September 16, 2021) among others.

The disputed domain name was registered on October 19, 2022. As of the date of this Decision and at filing of the Complaint, the disputed domain name resolves to a parked website hosting pay-per-click ("PPC") links. These links are links to websites related or competing with the Complainant's business.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Policy is satisfied in the present case, as follows:

Identical or confusingly similar

The Complainant argues that the disputed domain name <promanstaffing.co> is confusingly similar to the Complainant's registered PROMAN mark because it consists of its trademark with the generic term "staffing" and the ".co" ccTLD of Colombia.

Rights or legitimate interests

The Complainant argues that the Respondent is not licensed or authorized to use the Complainant's trademark. Therefore, the Respondent has no rights to any trademark consisting of or incorporating the Complainant's mark, or to the disputed domain name <promanstaffing.co>.

Further, the Complainant argues that the fact that the disputed domain name resolves to a parked website hosting PPC links does not represent a *bona fide* offering as the links compete with or capitalize on the reputation and goodwill of the Complainant's mark with an aim to mislead Internet users.

In summary, the Complainant contends that there is no element that could lead to the conclusion that the Respondent has rights or legitimate interests in respect of the disputed domain.

The disputed domain name was registered and used in bad faith

The Complainant claims that its PROMAN trademarks enjoy a strong reputation and it is unlikely that the Respondent is not aware of the Complainant and its trademarks. Further, the Complainant argues that the

disputed domain name was registered a few months after the Complainant's US subsidiary announced that the agencies of the Company changed their name to PROMAN STAFFING and changed its website and email addresses to the domain name <promanstaffing.com>.

Additionally, the Complainant argues that the Respondent hides its identity behind a privacy shield as the Respondent is aware that it has no legitimate rights. Further, the Complainant argues that according to the Center's online records, the Respondent has been an unsuccessful respondent in more than 320 other UDRP proceedings.

In summary, the Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for a transfer of the disputed domain name.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to the trademarks or service marks in which the Complainant has rights; and
- (ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

The disputed domain name <promanstaffing.co> consists of the registered trademark PROMAN and the term "staffing". The Panel finds that the disputed domain name is confusingly similar to the Complainant's registered trademarks (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7).

The element "staffing" in the disputed domain does not prevent the finding of confusingly similarity as the Complainant's trademark PROMAN remains clearly recognizable ([WIPO Overview 3.0](#), section 1.8).

Moreover, the country code Top-Level Domain ("ccTLD") ".co" in the disputed domain name corresponds to the country code for Colombia and is disregarded in the confusing similarity test, as it does not form part of the comparison as it is a standard registration requirement for technical reasons ([WIPO Overview 3.0](#), section 1.11).

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks and that the first element of paragraph 4(a) of the Policy is satisfied.

### **B. Rights or Legitimate Interests**

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name. While the overall burden of proof in UDRP proceedings is on the complainant, previous UDRP panels have recognized that proving that a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of proving a negative, *i.e.*, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or

legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element ([WIPO Overview 3.0](#), section 2.1).

The disputed domain name <promanstaffing.co> resolves to a parked website hosting PPC which directs Internet users to the websites which are related or competing with the Complainant. Previous UDRP panels have categorically held that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users ([WIPO Overview 3.0](#), section 2.9).

The use of the disputed domain cannot amount to a *bona fide* offering of goods and services or a legitimate noncommercial or fair use.

The Panel notes that there is no evidence showing that the Respondent holds any rights in the term "PROMAN". The Panel also notes that there is no evidence showing that the Respondent is authorized or licensed to use the Complainant's trademark PROMAN.

Therefore, the Panel finds that the Respondent does not have rights or any legitimate interests in the disputed domain name within the meaning of Policy, paragraph 4(a)(ii).

### **C. Registered and Used in Bad Faith**

Paragraph 4(a)(iii) of the Policy provides that a complainant must demonstrate that the disputed domain name has been registered and is being used in bad faith. Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's trademark ([WIPO Overview 3.0](#), section 3.1).

According to the evidence submitted in Annexes 9, 12, and 13, the disputed domain was registered a few months after the Complainant's US subsidiary announced that the agencies of the Company changed their name to PROMAN STAFFING. The Panel finds that at the time the disputed domain name was registered the Respondent more likely than not was aware of the trademark PROMAN and the Complainant's activities under the trademark registrations, and its domain name, all which predate the registration date of the disputed domain name. The Respondent knew or should have known about the Complainant's rights, and such information can be reached by a quick online search (see *Compart AG v. Compart.com / Vertical Axis Inc.*, WIPO Case No. [D2009-0462](#)).

The disputed domain name resolves to a parked website hosting PPC which directs Internet users to the websites which are related or competing with the Complainant. Considering the evidence provided in Annex 14, the Panel is in the view that such conduct of using a domain name, to attract Internet users for commercial gain, would fall squarely within the meaning of paragraph 4(b)(iv) of the Policy.

It is well established that where a domain name is used to generate revenue in respect of "click through" traffic, and that traffic has been attracted because of the name's association with the Complainant, such use amounts to use in bad faith (see *SAP SE v. Domains by Proxy, LLC / Kamal Karmakar*, WIPO Case No. [D2016-2497](#))

Further, the Respondent's use of false or incomplete contact details when registering the disputed domain name, as provided by the registrar, also suggests the inference of a bad faith. Also, according to the list provided in Annex 16 to the Complaint, the Panel finds that the Respondent has a history of cybersquatting, as the Respondent was the losing party in numerous proceedings under the Policy. This is further evidence of bad faith, see ([WIPO Overview 3.0](#), section 3.1.2)

In the circumstances, the Panel finds that the Respondent registered and has been using the disputed domain name in bad faith, and paragraph 4(a)(iii) of the Policy has been satisfied.

## **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <promanstaffing.co>, be transferred to the Complainant.

*/Ezgi Baklaci Gülkökar/*

**Ezgi Baklaci Gülkökar**

Sole Panelist

Date: January 26, 2023