

ADMINISTRATIVE PANEL DECISION

Project Management Institute, Inc. v. Super Privacy Service LTD / Wesley
Karr

Case No. D2022-2259

1. The Parties

The Complainant is Project Management Institute, Inc., United States of America (“United States”), represented by Roche Pia LLC, United States.

The Respondent is Super Privacy Service LTD, United States / Wesley Karr, United States.

2. The Domain Name and Registrar

The disputed domain name <mypmi.org> (the “Domain Name”) is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 21, 2022. On June 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 23, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint.

The Center sent an email communication to the Complainant on June 24, 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 also on June 22, 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 June 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 18, 2022.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on July 21, 2022. 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 is a nonprofit corporation organized under Pennsylvania law, with a principal place of business in Newtown Square, Pennsylvania, United States. The Complainant is a trade association serving 2.9 million project management professionals in nearly every country in the world with advocacy, collaboration, education, and research programs, as well as competency certification for individuals. The Complainant has operated under the initials "PMI" since 1969 and has used the PMI mark in its literature, products, and certification programs. The Complainant has also used a registered PMP mark (the initials standing for "Project Management Professional") in connection with its certification program since 1983, both as a trademark and as a certification mark. The Complainant operates a website at "www.pmi.org" and also owns the domain name <my.pmi.org>, which redirects to the Complainant's website.

The Complainant holds trademark registrations for PMI as a word mark in the United States and 58 other countries. The earliest of these is United States Registration Number 2152599, registered on April 21, 1998.

According to the Registrar's Whois database, the Domain Name was created on September 30, 2013. It was registered in the name of a domain privacy service. After receiving notice of the Complaint in this proceeding, the Registrar identified the underlying registrant as the Respondent Wesley Karr, listing no organization and a postal address in California, United States. The contact email address uses the domain name <speedplexer.com>. The one-page website at "www.speedplexer.com" includes no contact information or interactive features but describes SpeedPlexer as a "direct response media buying agency".

At the time of this Decision, the Domain Name does not resolve to an active website. However, the Complaint attaches screenshots and investigative reports showing that the Domain Name was formerly associated with, or redirected to, landing pages at "ww38.mypmi.org", "ww11.mypmi.org", or "ww38.mypmi.org" displaying pay-per-click ("PPC") third-party advertising links with headings such as "PMP Certified" and "PMI PMP Certification". An investigation by the Complainant found that these sites have been characterized by Internet security tools as critical security risks for suspected malware downloads associated with "command and control" servers.

5. Parties' Contentions

A. Complainant

The Complainant asserts that the Domain Name is confusingly similar to its registered PMI mark and that the Respondent has no permission to use the mark or other rights or legitimate interests justifying its use of the mark in the Domain Name. There is no indication that the Respondent is known by a corresponding name or has legitimately done business or made fair noncommercial use of the Domain Name.

The Complainant argues for a finding of bad faith, inferring that the Respondent was likely aware of the Complainant and its long-established mark and domain names. The Respondent closely emulated the Complainant's domain names, adding the word "my" to the Complainant's principal domain name and using the same Top-Level Domain ("TLD") ".org", while differing from the Complainant's <my.pmi.org> domain name only by omitting the dot after "my". The Complainant contends that the Respondent prevents the Complainant from using its mark with the generic word "my" on a popular TLD, confuses the public as to source or affiliation, disrupts the business of the Complainant, and diverts Internet users for gain or potentially to victimize them.

The Complainant cites other UDRP decisions finding bad faith on the part of respondents similarly cybersquatting its PMI mark for pecuniary benefit or potentially illicit activities, such as *Project Management Institute, Inc. v. david david / song yy also known as Yushan Jiang / Huaya International Consulting Co.*, WIPO Case No. [D2010-1233](#).

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest a respondent of a domain name, a complainant must demonstrate each of the following: (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and (ii) the respondent has no rights or legitimate interests in respect of the domain name; and (iii) the domain name has been registered and is being used in bad faith. Under paragraph 15(a) of the Rules, "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

A. Identical or Confusingly Similar

The first element of a UDRP complaint "functions primarily as a standing requirement" and entails "a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name". WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7. The Domain Name incorporates the Complainant's registered PMI mark in its entirety and adds the dictionary term "my", which does not avoid a finding of confusing similarity. See *id.*, section 1.8. (As usual, the Top-Level Domain ".org" is disregarded as a standard registration requirement. See *id.* [WIPO Overview 3.0](#) section 1.11.1.)

The Panel finds, therefore, that the Domain Name is confusingly similar to the Complainant's PMI mark for purposes of the first Policy element and concludes that the Complainant has established the first element of the Complaint.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy gives non-exclusive examples of instances in which a respondent may establish rights or legitimate interests in a domain name, by demonstrating any of the following:

(i) before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) that the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or

(iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Because a respondent in a UDRP proceeding is in the best position to assert rights or legitimate interests in a domain name, it is well established that after a complainant makes a *prima facie* case, the burden of production on this element shifts to the respondent to come forward with relevant evidence of its rights or legitimate interests in the domain name. See [WIPO Overview 3.0](#), section 2.1.

The Complainant has established trademark rights, a lack of permissive use, and the Respondent's use of the Domain Name for third-party PPC advertising on suspect sites that also have been associated with malware downloads. None of this indicates rights or legitimate interests in the Domain Name. See [WIPO Overview 3.0](#), sections 2.9 (decisions concerning PPC advertising based on trademarks rather than dictionary words or phrases), 2.13 (illicit activity associated with domain names). Thus, the Complainant has made a *prima facie* case, and the burden of production shifts to the Respondent.

The dominant element of the Domain Name is the three-letter string "pmi", identical to the Complainant's mark. It has the appearance of an acronym, as it is not a dictionary word or phrase. The Respondent does not offer an explanation for selecting the Domain Name and has not come forward with evidence of "a credible and legitimate intent which does not capitalize on the reputation and goodwill inherent in the complainant's mark". See *id.*, section 2.10.2 (establishing rights or interests in acronyms). The Panel also notes the similarity between the Domain Name and the Complainant's domain name <my.pmi.org>. The Panel concludes, therefore, that the Complainant prevails on the second element of the Complaint.

C. Registered and Used in Bad Faith

The Policy, paragraph 4(b), furnishes a non-exhaustive list of circumstances that "shall be evidence of the registration and use of a domain name in bad faith", including the following to which the Complainant alludes (in which "you" refers to the registrant of the domain name):

"(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location."

These are not all entirely relevant examples. There is no record here of the Respondent's "pattern" of conduct in domain name registrations, nor is it clear that the Respondent is primarily bent on disrupting the business of a competitor. But paragraph 4(b)(iv) applies – misdirecting Internet users for commercial gain. The evidence indicates the likelihood that the Respondent was aware of the Complainant's long-established PMI mark, as the Respondent closely emulated the Complainant's domain names and used the Domain Name for PPC advertising displaying both the Complainant's PMI and PMP marks. Moreover, the Respondent's apparent use of hosting sites associated with malware downloads suggests another instance of bad faith conduct in addition to the enumerated examples in the Policy, paragraph 4(b). (See [WIPO Overview 3.0](#), section 3.4 on malware distribution and other illicit uses of domain names as evidence of bad faith).

The Panel finds that the Domain Name was registered and used in bad faith within the meaning of the Policy and concludes that the Complainant has established the third element of the Complaint.

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 Domain Name, <mypmi.org>, be transferred to the Complainant.

/W. Scott Blackmer/

W. Scott Blackmer

Sole Panelist

Date: August 4, 2022