

ADMINISTRATIVE PANEL DECISION

PrideStaff, Inc. v. Ellie Cruz, Pride Virtual Staffing Case No. D2022-3542

1. The Parties

Complainant is PrideStaff, Inc., United States of America (“United States”), represented by Frost Brown Todd LLC, United States.

Respondent is Ellie Cruz, Pride Virtual Staffing, United States.

2. The Domain Name and Registrar

The disputed domain name <pridevirtualstaffing.com> (the “Domain Name”) is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 25, 2022. On September 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 26, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email to Complainant on September 28, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on October 3, 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 Respondent of the Complaint, and the proceedings commenced on October 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 27, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 28, 2022.

The Center appointed Robert A. Badgley as the sole panelist in this matter on November 3, 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

Complainant describes itself as “one of the most well-known staffing firms in the United States”, with more than 85 offices nationwide. Complainant provides professional staffing services for employers, and provides job placement services for individuals looking for work.

Complainant holds a registered trademark for PRIDESTAFF with the United States Patent and Trademark Office (“USPTO”), Reg. No. 2,116,589, registered on November 25, 1997. In addition, Complainant has owned the domain name <pridestaff.com> since 1996, and has used it extensively in connection with its staffing and job placement services.

Complainant has received unsolicited media coverage from various leading business publications (e.g., *Forbes*, *Entrepreneur*), and has won numerous industry awards as a leading provider of staffing services, including the “Best of Staffing Talent Diamond Award” each year from 2017 through 2022.

The Domain Name was registered on August 14, 2022. The Domain Name does not resolve to an active website. Complainant notes, however (and provides documentary evidence), that Respondent has set up MX records for the Domain Name. According to Complainant, Respondent may have set up the MX records in order to create fake email addresses to impersonate Complainant and engage in fraudulent activities.

Complainant also states (and supports with documentary evidence) that the Whois contact information for Respondent contains a nonexistent street address in California, and that the alleged company (Pride Virtual Staffing) associated in the Whois database with Respondent (Ellie Cruz) is not registered with the California Secretary of State.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied all three elements required under the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) 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.

A. Identical or Confusingly Similar

The Panel concludes that Complainant has rights in the trademark PRIDESTAFF through registration and use demonstrated in the record. The Panel also concludes that the Domain Name is confusingly similar to that mark. The “ing” ending and the additional word “virtual” do not overcome the essential fact that the PRIDESTAFF mark remains clearly recognizable within the Domain Name.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your 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) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are 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.

The Panel concludes that Respondent lacks rights or legitimate interests in connection with the Domain Name. Respondent has not come forward in this proceeding to articulate or prove any possible legitimate interest in the Domain Name. None of the above-quoted “safe harbors” applies here, based on the record presented.

All we know about Respondent Ella Cruz is that she apparently included false information about her alleged business and its street address in the Whois record, and that she has set up MX records in connection with the Domain Name. Nothing in the record suggests that Respondent has any *bona fide* basis to have registered the Domain Name.

Complainant has established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation”, are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has 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 Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes that Respondent registered and used the Domain Name in bad faith under the Policy. The Panel incorporates its discussion above in the “Rights or Legitimate Interests” section.

Based on the undisputed record, the Panel concludes, on a balance of probabilities, that Respondent more likely than not had Complainant’s registered and well-known PRIDESTAFF trademark in mind when registering the Domain Name.

The fact that the Domain Name does not resolve to an active website together with Respondent’s provision of false information and establishment of MX records, in the circumstances of this case, is sufficient to support a finding of bad faith use under the Policy.

Complainant has established Policy paragraph 4(a)(iii).

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 <pridevirtualstaffing.com> be transferred to Complainant.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: November 14, 2022