

ADMINISTRATIVE PANEL DECISION

**Infojobs Brasil Atividades de Internet Ltda. v. Domain Admin, E-Promote
Case No. D2022-4909**

1. The Parties

The Complainant is Infojobs Brasil Atividades de Internet Ltda., Brazil, represented by J.D. Núñez, Patentes y Marcas, S.L., Spain.

The Respondent is Domain Admin, E-Promote, United States of America.

2. The Domain Name and Registrar

The disputed domain name <pandape.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 21, 2022. On December 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 22, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 January 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 27, 2023.

The Center appointed George R. F. Souter as the sole panelist in this matter on February 8, 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 is a Brazilian company, operating a platform providing services relating to job search and selection process management under its trademark PANDAPÉ. The company is well-established in Brazil, and is expanding its services under its PANDAPÉ throughout South America.

The Complainant is the proprietor of Brazilian trademark registration number 916463648, registered on October 1, 2019, in respect of its PANDAPÉ trademark.

The disputed domain name was registered on March 20, 2021, and resolves to a website in which links for services competing with those of the Complainant are offered.

5. Parties' Contentions

A. Complainant

The Complainant alleges that the disputed domain name is confusingly similar to its PANDAPÉ trademark, containing its PANDAPÉ trademark in its entirety, the sole difference being that the acute accent over the letter "e" is missing.

The Complainant alleges that the Respondent lacks rights or legitimate interests in the disputed domain name, in particular that there is no evidence that the Respondent is generally known by the disputed domain name, and that the Complainant has never granted permission to the Respondent to use its PANDAPÉ trademark in connection with the registration of a domain name, or otherwise.

The Complainant alleges that the disputed domain name was registered in bad faith, and is being used in bad faith in connection with the website referred to above.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements that the Complainant must prove to merit a finding that the disputed domain name be transferred to the Complainant:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Confusing Similarity

The Panel finds that the Complainant has rights to its PANDAPÉ trademark for the purposes of these proceedings.

It is well established in prior decisions under the UDRP, with which the Panel agrees, that a generic Top-Level Domain ("gTLD") may generally be disregarded when comparing a trademark with a disputed domain name. The Panel considers the ".com" gTLD to be irrelevant in the circumstances of the present case, and finds that it may be disregarded here.

The Complainant's PANDAPÉ trademark is clearly recognizable in the disputed domain name, rendering the disputed domain names confusingly similar to the Complainant's trademark. The absence of the acute accent over the letter "e" does not prevent this finding.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in connection with the disputed domain names at issue.

B. Rights or Legitimate Interests

The Panel considers that the Complainant's allegations are sufficient to provide a *prima facie* case under this heading.

It is the consensus view of UDRP panels, with which the Panel agrees, that a *prima facie* case advanced by the complainant will generally be sufficient for the complainant to be deemed to have satisfied the requirement of paragraph 4(a)(ii) of the Policy, provided the respondent does not come forward with evidence demonstrating rights or legitimate interests in the domain name and the complainant has presented a sufficient *prima facie* case to succeed under paragraph 4(a)(ii) of the Policy.

The Respondent did not advance any claim of rights or legitimate interests in the disputed domain name to rebut this *prima facie* case.

In the Panel's opinion, the disputed domain name carries a risk of implied affiliation to the Complainant, and this is reinforced by the use of the disputed domain name as mentioned above. In the Panel's opinion, this is clearly not *bona fide* use of the disputed domain name and, in the circumstances of the present case, the Panel concludes that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel is of the view that the finding that a respondent has no rights or legitimate interests in a disputed domain name can lead, in appropriate circumstances, to a finding of registration of a disputed domain name in bad faith. The circumstances of the present case, in which the Panel regards it as self-evident that the Complainant's PANDAPÉ trademark was deliberately appropriated in the disputed domain name are such that the Panel concludes that a finding of registration in bad faith is justified, in connection with the disputed domain name and so finds.

It is well-established in prior decisions under the Policy that the use of a disputed domain name in connection with a website offering pay-per-click links to an external website offering services competing with those offered by a complainant constitutes use of the disputed domain name in bad faith, and, in the circumstances of the present case, the Panel so finds.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) of the Policy.

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, <pandape.com>, be transferred to the Complainant.

/George R. F. Souter/

George R. F. Souter

Sole Panelist

Date: February 22, 2023