

## **ADMINISTRATIVE PANEL DECISION**

Staffbase GmbH v. James Hoe

Case No. DNL2022-0016

### **1. The Parties**

Complainant is Staffbase GmbH, Germany, represented by Sonnenberg Harrison Partnerschaft mbB, Germany.

Respondent is James Hoe, China.

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

The disputed domain name <staffbase.nl> (the “Domain Name”) is registered with SIDN through 1API GmbH.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 17, 2022. On March 17, 2022, the Center transmitted by email to SIDN a request for registrar verification in connection with the Domain Name. On March 18, 2022, SIDN 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 Complainant on March 18, 2022, providing the information disclosed by SIDN, and inviting Complainant to amend the Complaint in this light. Complainant filed an amended Complaint on March 23 and 24, 2022.

The Center verified that the Complaint as amended satisfies the formal requirements of the Dispute Resolution Regulations for .nl Domain Names (the “Regulations”).

In accordance with the Regulations, articles 5.1 and 16.4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on March 25, 2022. In accordance with the Regulations, article 7.1, the due date for Response was April 14, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 19, 2022.

The Center appointed Dinant T. L. Oosterbaan as the panelist in this matter on May 12, 2022. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

#### **4. Factual Background**

Complainant was founded in 2014 in Germany and has ever since been expanding worldwide. Complainant has developed an employee communications management platform.

Complainant has more than 1,000 customers worldwide and has reached more than 2 million employees of its worldwide customers with its software and related services. Complainant incorporated its Dutch subsidiary Staffbase B.V. in September 2019.

According to the evidence submitted by Complainant, Complainant has obtained several registrations for the trademark STAFFBASE, including:

- International trademark STAFFBASE, no. 1336606, date of registration November 23, 2016, also applicable in the European Union;
- German trademark STAFFBASE, no. 302016108816, registered on October 14, 2016.

The Complainant has also registered and uses the domain name <staffbase.com>.

SIDN informed the Center that the Domain Name was registered by Respondent on June 27, 2018.

The Domain Name resolves to a pay-per-click webpage. This webpage also mentions that the Domain Name may be for sale.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant submits that the Domain Name is identical to Complainant's STAFFBASE trademarks.

Complainant submits that Respondent has no rights to or legitimate interests in the Domain Name. On the website to which the Domain Name resolves, it is stated that the domain "may be for sale". A price for the purchase of the Domain Name is not mentioned on this website. Complainant has tried to contact the registrant of the Domain Name / Respondent by contacting the Registrar. The Registrar responded that the email was forwarded to the registrant. On the same day, Complainant was contacted by someone who only used the name "Richard". He claimed to be the agent of the registrant and wrote: "Our client registered the domain for one project but not start now. So, this domain is now available for resale." Complainant tried to find an amicable solution and was even prepared – without prejudice and without acknowledging any rights – to pay for the transfer of the Domain Name from the registrant/Respondent to Complainant. The representative of Complainant contacted "Richard" in June 2021, but never received a response. In late October 2021, Complainant made another effort to try and contact the registrant by offering to purchase the Domain Name for USD 300. "Richard" answered on October 28, 2021 that his client asks USD 45,000. On behalf of Complainant one last effort was made and it was mentioned that in view of the trademark rights the offer of USD 300 was more than generous. "Richard" responded on October 30, 2021 that he is just an agent and the offer of Complainant is too low.

Complainant also asserts that Respondent's name "James Hoe" is unknown to Complainant. No person by that name is in any way related to Complainant. For the Spanish <staffbase.es> domain name which seems to be registered by the same registrant, the registrant's name is given as "hongxin Xiao". Therefore, it is likely that the name of the registrant in the Whois Register is a pseudonym hiding the real identity of the registrant of the Domain Name. Based on the evidence and on the appearance of the website as well as separate investigations by Complainant, Complainant submits that the registrant of the Domain Name does not have any rights in the name "Staffbase" or in a similar name.

Complainant asserts that the Domain Name has been registered and is being used in bad faith. According to Complainant, Complainant's name and trademarks are widely used and enjoy a good reputation. There is no evidence that Respondent is using the Domain Name in good faith. Moreover, Respondent has concealed its identity and it is unclear whether Respondent has provided correct contact information. Therefore, it is not possible to conceive of any plausible actual or contemplated active use of the Domain Name by Respondent that would represent a legitimate use of the Domain Name. As a result Complainant submits that the non-use of the Domain Name by Respondent constitutes bad faith registration under the Regulations. Complainant adds that Respondent also seems to have registered the domain names <staffbase.it>, <staffbase.fr>, and <staffbase.es>. According to Complainant these domain names are also used and registered in bad faith, and Complainant will be filing similar complaints.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

Based on article 2.1 of the Regulations, a claim to transfer a domain name must meet three cumulative conditions:

- a. the domain name is identical or confusingly similar to a trademark or trade name protected under Dutch law in which the complainant has rights, or other name mentioned in article 2.1(a) under II of the Regulations; and
- b. the respondent has no rights to or legitimate interests in the domain name; and
- c. the domain name has been registered or is being used in bad faith.

As Respondent has not filed a Response, the Panel shall rule based on the Complaint. In accordance with article 10.3 of the Regulations, the Complaint shall in that event be granted, unless the Panel considers it to be without basis in law or in fact.

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

Complainant has established that it is the owner of several trademarks, including International trademark STAFFBASE, also applicable in the European Union.

The Domain Name incorporates the entirety of the STAFFBASE mark. Previous panels under the Regulations have found that a domain name is identical or confusingly similar to a complainant's trademark where the domain name incorporates the distinctive part or entirety of such trademark. See also section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").<sup>1</sup>

The country code Top-Level Domain ".nl" may be disregarded for purposes of article 2.1(a) of the Regulations, see *Roompot Recreatie Beheer B.V. v. Edoco LTD*, WIPO Case No. [DNL2008-0008](#).

The Panel finds that the Domain Name is identical to Complainant's STAFFBASE trademark for purposes of the Regulations.

---

<sup>1</sup> In view of the fact that the Regulations are substantially similar to the Uniform Domain Name Dispute Resolution Policy ("UDRP"), it is well established that both cases decided under the Regulations and cases decided under the UDRP, and therefore [WIPO Overview 3.0](#), may be relevant to the determination of this proceeding (see, e.g., *Aktiebolaget Electrolux v. Beuk Horeca B.V.*, WIPO Case No. [DNL2008-0050](#)).

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

As stated in [WIPO Overview 3.0](#), “while the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of ‘proving a negative’, 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”.

In the Panel’s opinion, Complainant has made out a *prima facie* case that Respondent lacks rights to or legitimate interests in the Domain Name.

According to the undisputed submissions and evidence provided by Complainant, the Domain Name resolves to a pay-per-click website which also mentions that the Domain Name may be for sale, which the factual record indeed confirms. Based on the case file, the Panel finds that Respondent is not commonly known by the Domain Name nor has acquired trademark or other rights corresponding to the Domain Name. It appears that by using the Domain Name, Respondent diverts Internet users to a website which is a pay-per-click site in the English language featuring links (entitled “International Hiring”, “Employee Gift Card Reward Program” and “Employee Benefits”) to various third-party websites, including websites offering software and services competing with the software and services offered by Complainant to its customers.

The Panel does not consider such use a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use of the Domain Name. There is no evidence that Respondent has acquired any relevant trademark or service mark rights. In addition, there has never been any business relationship between Complainant and Respondent.

No Response to the Complaint was filed and Respondent has not rebutted Complainant’s *prima facie* case.

The Panel finds that Respondent has no rights to or legitimate interests in the Domain Name.

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

The Panel finds that the Domain Name has been registered and is being used in bad faith.

Noting the circumstances of this case, the Panel finds it more likely than not that Respondent knew – and finds that in any event it should have known – Complainant’s STAFFBASE mark at the time of registration. In this connection, the Panel notes the undisputed assertion of Complainant supported by substantial evidence that the Domain Name is offered for sale for the substantial amount of USD 45,000, which indicates that Respondent likely registered the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name for valuable consideration in excess of the cost of registration which constitutes bad faith registration under the Regulations.

In addition the Panel notes that the Domain Name resolves to a website containing pay-per-click links, which indicates, in the circumstances of this case, that Respondent used the Domain Name with the intention to attract, for commercial gain, Internet users to the website by creating a likelihood of confusion with the trademarks of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or other online location or of products or services on its website or other online location, which constitutes registration or use in bad faith pursuant to article 3.2.d. of the Regulations.

The Panel finally notes that Respondent has been involved in a bad-faith pattern of conduct of preventing a trademark owner from reflecting its mark in a “.nl” domain name; see *Patreon, Inc. v. James Hoe*, WIPO Case No. [DNL2020-0027](#), <patreon.nl>, and *ZipRecruiter, Inc. v. James Hoe*, WIPO Case No. [DNL2019-0008](#), <ziprecruiter.nl>.

## 7. Decision

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the Domain Name <staffbase.nl> be transferred to Complainant.

*/Dinant T.L. Oosterbaan/*

**Dinant T. L. Oosterbaan**

Panelist

Date: May 26, 2022