

## ADMINISTRATIVE PANEL DECISION

### Peak Technical Services, Inc. v. Name Redacted

### Case No. D2023-0403

#### 1. The Parties

Complainant is Peak Technical Services, Inc., United States of America (“United States”), internally represented.

Respondent is Name Redacted<sup>1</sup>.

#### 2. The Domain Name and Registrar

The disputed domain name <peakstaffing-usa.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 January 27, 2023. On January 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 31, 2023, 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 (Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to Complainant on February 1, 2023, 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 February 1, 2023.

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<sup>1</sup> The Respondent appears to have used the names and/or contact details of Complainant when registering the disputed domain name. In light of this situation, the Panel has redacted the Respondent’s name from the decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST 12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

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 February 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 23, 2023. Respondent did not submit a formal response. Accordingly, the Center notified Respondent’s default on March 1, 2023.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on March 6, 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**

Complainant is a company based in the United States. For at least a decade prior to the registration of the disputed domain name, Complainant has been offering personnel placement and consulting services under the mark PEAK TECHNICAL STAFFING USA. In this regard, Complainant is the owner of several trademark registrations for its PEAK TECHNICAL STAFFING USA mark in the United States, where Respondent lists an address of record. These include United States Registration No. 3973161 (registered June 7, 2011).

The disputed domain name was registered on January 11, 2023. Although it appears to resolve to a currently inactive webpage, Respondent has used an email address associated with the disputed domain name to engage in potentially fraudulent behavior whereby Respondent posed as an official representative of Complainant, seeking to obtain sensitive personal and financial information from prospective recruits. Respondent has no affiliation with Complainant. Complainant has not authorized any activities by Respondent, nor any use of its trademarks thereby.

#### **5. Parties’ Contentions**

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

Complainant contends that (i) the disputed domain name is identical or confusingly similar to Complainant’s trademarks, (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

Specifically, Complainant contends that it owns the PEAK TECHNICAL STAFFING USA mark, and that Complainant has corresponding trademark registrations. Complainant contends that Respondent has incorporated the dominant portion of its PEAK TECHNICAL STAFFING USA mark into the disputed domain name.

Complainant contends that Respondent lacks rights or legitimate interest in the disputed domain name, and rather has registered and is using it in bad faith to profit from the good will of Complainant’s mark for Respondent’s own commercial gain. In particular, Complainant contends that Respondent has acted in bad faith in registering the disputed domain name under a concealed privacy service and a false name, impersonating an actual employee of Complainant. Complainant further contends that Respondent has used a corresponding false identity to send out fraudulent emails that reference and refer to Complainant and to an actual employee thereof, in an apparent attempt to confuse prospective recruits into providing sensitive personal and financial

information.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

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

This Panel must first determine whether the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy. The Panel finds that it is. The disputed domain name incorporates the dominant portion of Complainant's registered mark PEAK TECHNICAL STAFFING USA. Incorporating the "dominant feature" of a mark may be sufficient for a finding under this first element of the UDRP. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7. Furthermore, Respondent's addition of a hyphen does not affect the confusing similarity. See *General Electric Company v. Recruiters*, WIPO Case No. [D2007-0584](#) (transferring <ge-recruiting.com>).

The Panel therefore finds that the disputed domain name is identical or confusingly similar to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

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

The Policy provides some guidance to respondents on how to demonstrate rights or legitimate interests in the domain name at issue in a UDRP dispute. For example, paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name. These examples include: (i) use of the domain name "in connection with a *bona fide* offering of goods or services"; (ii) demonstration that Respondent has been "commonly known by the domain name"; or (iii) "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".

Respondent did not submit a reply to the Complaint, however. Rather, as mentioned in Section 4 of this Panel's decision, Respondent has used an email account associated with the disputed domain name to engage in an apparent phishing scheme. Accordingly, the Panel finds that Complainant has made a *prima facie* showing of Respondent's lack of rights or legitimate interest in the disputed domain name, which Respondent has not rebutted.

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

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. For example, paragraph 4(b)(iv) of the Policy states that bad faith can be shown where "by using the domain name [respondent has] intentionally attempted to attract, for commercial gain, Internet users to [respondent's] 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 [respondent's] website or location or of a product or service on [the] web site or location". As noted in Section 4 of this Panel's decision, the disputed domain name resolves to an inactive web page. Respondent has, nevertheless, used the disputed domain name to set up an email account impersonating an actual employee of Complainant in a manner apparently calculated to confuse potential recruits seeking personnel services from Complainant into providing Respondent their sensitive personal and financial information.

Hence, Respondent is trading on the goodwill of Complainant's trademarks to attract Internet users, presumably for Respondent's own commercial gain. The Panel thus finds that despite the passive website use, Respondent registered and used the disputed domain name with knowledge of Complainant's prior rights, thereby evidencing bad faith. This is particularly so, given the use of the disputed domain name, which indicates an apparent familiarity with Complainant and its marks.

Overall, the Panel finds that Respondent registered and used the disputed domain name in bad faith for purposes of paragraph 4(a)(iii) of the Policy.

## **7. Decision**

For all 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 <peakstaffing-usa.com> be transferred to Complainant.

*/Lorelei Ritchie/*

**Lorelei Ritchie**

Sole Panelist

Dated: March 20, 2023