

## **ADMINISTRATIVE PANEL DECISION**

PrideStaff, Inc. v. IT King, jksbfh  
Case No. D2024-1407

### **1. The Parties**

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

Respondent is IT King, jksbfh, United States.

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

The disputed domain name <pridedatastaffing.com> is registered with Squarespace Domains LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 3, 2024. On April 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 4, 2024, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to Complainant on April 4, 2024, 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 April 8, 2024.

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 April 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 8, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on May 10, 2024.

The Center appointed Frederick M. Abbott as the sole panelist in this matter on May 16, 2024. 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 corporation organized under the laws of the State of California, United States. Complainant has over 85 offices in the United States and is in the business of providing professional staffing services for both employers with professional staffing needs and individuals looking for job placement services. Complainant has been using the PRIDESTAFF trademark in commerce for approximately 30 years. Complainant operates a commercial website at the domain name <pridestaff.com>.

Complainant is the owner of registration for the word service mark PRIDESTAFF on the Principal Register of the United States Patent and Trademark Office (USPTO), registration number 2116589, registration dated November 25, 1997, in international class (IC) 35, covering “employment agency services; personnel relocation services; personnel placement and recruitment services; temporary personnel placement and recruitment services; contract staffing services; personnel management consulting services; and personnel outplacement services”.

According to the Registrar’s verification, Respondent is registrant of the disputed domain name. According to the Whois report, the disputed domain name was created on December 7, 2023. There is no indication on the record of this proceeding that any party other than Respondent has owned or controlled the disputed domain name since its creation date.

Respondent has used the disputed domain name to direct Internet users to a website designed to appear as that of a functioning staffing agency for both employers and employees. The subject website provides some general statements regarding employment but contains no information regarding its alleged underlying business other than an e-mail address using the disputed domain name as the receiving domain. Respondent’s website includes a submission form headed “REQUEST TALENT” that provides space for a responding party to include their name e-mail address and telephone number, along with comments. There is no indication on the website of Respondent’s lack of affiliation with Complainant. There is no evidence on the record of this proceeding regarding actual Internet user submissions using the form provided at Respondent’s website.

There is no indication on the record of this proceeding of any affiliation between Complainant and Respondent, commercial or otherwise.

#### **5. Parties’ Contentions**

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

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Complainant alleges that it owns rights in the trademark PRIDESTAFF and that the disputed domain name is confusingly similar to that trademark.

Complainant contends that Respondent lacks rights or legitimate interests in the disputed domain name because: (1) Respondent is not affiliated with Complainant, and; (2) Respondent is using the disputed domain name in an illegitimate manner that does not constitute a bona fide offering of services.

Complainant argues that Respondent registered and is using the disputed domain name in bad faith because (1) mere registration of the disputed domain name suggests opportunistic bad faith; (2) Respondent is seeking to capitalize on the goodwill of Complainant; (3) Respondent has set up MX records for the disputed domain name which suggests an intention to use in connection with transmission of e-mail, likely for some type of employment scam; (4) use of a privacy shield under certain circumstances can constitute evidence of bad faith, and; (5) Respondent's provision of false contact information evidences bad faith.

Complainant requests the Panel to direct the Registrar to transfer the disputed domain name to Complainant.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

It is essential to Policy proceedings that fundamental due process requirements be met. Such requirements include that a respondent have notice of proceedings that may substantially affect its rights. The Policy and the Rules establish procedures intended to ensure that respondents are given adequate notice of proceedings commenced against them and a reasonable opportunity to respond (see, e.g., Rules, paragraph 2(a)).

The Center formally notified the Complaint to Respondent at the email and physical addresses provided in its record of registration. Courier delivery of the Complaint to Respondent could not be completed because of a manifestly inaccurate physical address in Respondent's record of registration. There is no indication of difficulty in transmission of email notification to Respondent. The Center took those steps prescribed by the Policy and the Rules to provide notice to Respondent, and those steps are presumed to satisfy notice requirements.

Paragraph 4(a) of the Policy sets forth three elements that must be established by a complainant to merit a finding that a respondent has engaged in abusive domain name registration and use and to obtain relief. These elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which complainant has rights;
- (ii) 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. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves 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.

Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here “data” (along with addition of “ing” to “staff”) may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of respondent. As such, where a complainant makes out a prima facie case that respondent lacks rights or legitimate interests, the burden of production on this element shifts to respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on complainant). If respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Respondent’s use of the disputed domain name in connection with a website that relies on confusing similarity with Complainant’s trademark, and purports to operate in the same field, does not constitute a bona fide offering of services, nor does it evidence legitimate non-commercial or fair use.

Although there is no concrete evidence that Respondent has succeeded in securing contact information from persons visiting its website, Respondent’s provision of a form requesting such data suggests that Respondent has or will secure such data under false pretenses. The design and implementation of such a data collection scheme does not establish rights or legitimate interests.

Respondent’s use of the disputed domain name does not otherwise manifest rights or legitimate interests.

The Panel finds the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Respondent registered and used the disputed domain name long after Complainant began using its trademark in connection with its staffing business and related commercial website. Respondent was not plausibly unaware of Complainant and its trademark when it registered and used the disputed domain name. A routine Google or other search of the disputed domain name generates numerous references to Complainant and its web presence.

Respondent's use of the disputed domain name in connection with a website in the same field as Complainant, designed to appear as a legitimate staffing business while requesting data from Internet users, strongly suggests Respondent's intention to take unfair advantage of Internet users seeking or offering employment. The use of domain names confusingly similar to trademarks for purposes of engaging in "employment scams" – including by transmitting e-mail correspondence using a disputed domain name as an email domain – is not uncommon (see recently, e.g., *MasTec North America, Inc. v. Jose Gallon*, WIPO Case No. [D2024-0515](#) and *H. Lee Moffitt Cancer Center & Research Institute Inc. v. Hirsch Dev*, WIPO Case No. [D2023-4252](#)). Respondent has not responded to the Complaint and has not attempted to justify its registration and use of the disputed domain name. Such justification in the circumstances of this proceeding seems highly unlikely. Respondent provided manifestly false contact information in its record of registration for the disputed domain name. The Panel concludes that Respondent registered and is using the disputed domain name for commercial gain by creating Internet user confusion with respect to Complainant as the source, sponsor, affiliate or endorser of its Respondent's website. Respondent evidences a likelihood of engaging in other forms of abuse. Respondent's conduct constitutes bad faith within the meaning of paragraph 4(b)(iv) of the Policy, and by other indicia of bad faith.

The Panel finds that Complainant has established the third element 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 <pridedatastaffing.com> be transferred to Complainant.

*/Frederick M. Abbott/*

**Frederick M. Abbott**

Sole Panelist

Date: May 30, 2024