

## **ADMINISTRATIVE PANEL DECISION**

Proman Expansion v. Volder managementondersteuning  
Case No. DNL2024-0039

### **1. The Parties**

Complainant is Proman Expansion, France, represented by Nameshield, France.

The registrant of the disputed domain name is Volder managementondersteuning, Netherlands (Kingdom of the), (the “Respondent”), represented by Gustaaf Ivar Volder, Netherlands (Kingdom of the).

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

The disputed domain name <proman.nl> is registered with SIDN through Hosting2GO B.V.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 27, 2024. On August 27, 2024, the Center transmitted by email to SIDN a request for registrar verification in connection with the disputed domain name.

On August 28, 2024, SIDN 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 and contact information in the Complaint.

The Center sent an email communication to Complainant on August 28, 2024, providing the information disclosed by SIDN, and inviting Complainant to amend the Complaint in this light. Complainant filed an amended Complaint on August 29, 2024.

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 August 30, 2024. In accordance with the Regulations, article 7.1, the due date for Response was September 19, 2024. The Response was filed with the Center on September 4, 2024.

On September 13, 2024, SIDN commenced the mediation process. On October 22, 2024, SIDN extended the mediation process until November 21, 2024. On December 12, 2024, SIDN extended the mediation process until January 3, 2025. On January 10, 2025, SIDN informed parties that the dispute had not been solved in the mediation process.

The Center appointed Richard C.K. van Oerle as the panelist in this matter on January 17, 2025. 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 contends that, founded in 1933, PROMAN is a leading independent player in the field of temporary work and human resources. As the 4th European player in temporary work and a presence in 17 countries, the Group turnover amounted to EUR 4.1 billion in 2023.

Complainant holds numerous trademarks registrations for PROMAN on a worldwide basis, inter alia:

- French trademark registration no. 1617815 registered since March 8, 1991;
- International Trademark registration no. 1213155, registered on March 28, 2014, designating Austria, Benelux, Bulgaria, Denmark, Estonia, Finland, Greece, Ireland, , Lithuania, Sweden and the United Kingdom;
- European Union Trademark registration no. 018501035, registered on October 13, 2021.

These registrations have been duly renewed and are still valid. The registrations will jointly be referred to, in singular, as the "Trademark".

In addition, Complainant owns domain name registrations containing the Trademark, for instance <proman-interim.com> (registered since July 8, 2002) and <proman-emploi.com> (registered since August 13, 2012).

According to the information provided by SIDN, the disputed domain name was first registered on May 25, 2005, and acquired by Respondent on January 27, 2017. At the time of the filing of the Complaint, the disputed domain name resolved to an error page.

The Respondent is Volder managementondersteuning which is a company specialised in human resources, especially in recruitment which competes with the Complainant's activities.

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

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

Complainant stated, in summary and in so far as relevant, the following.

Complainant contends that each of the three elements specified in article 2.1 of the Regulations is satisfied in the present case, as follows.

Complainant contends that the disputed domain name is identical to the Trademark as the disputed domain name incorporates this Trademark in its entirety.

Complainant contends that Respondent has no rights or legitimate interests in respect of the disputed domain name and he is not related in any way with Complainant. Complainant asserts that Respondent has not been commonly known by the disputed domain name. Complainant does not carry out any activity for, nor has any business with Respondent. Neither license nor authorization has been granted to Respondent

to make any use of the Trademark, or apply for registration of the disputed domain name by Respondent. Moreover, the disputed domain name has never been used, by Respondent's own admission.

Finally, Complainant asserts that in order to settle this case outside of court, Complainant contacted Respondent. Respondent replied that he was willing to sell the disputed domain name and that his asking price was EUR 49,000.

Further, Complainant asserts that the disputed domain name is identical to the prior Trademark and confusingly similar to its previous trademarks around the denomination PROMAN.

Respondent's company is specialized in human resources, especially in recruitment. These activities compete with Complainant's activities.

Besides, by his own admission, Respondent claims to have conducted a market survey for his project around the term "proman" in 2017. Yet, in 2016, Complainant was expanding its activities worldwide, especially in Europe, such as in Belgium and Luxembourg. Therefore, there is no doubt that Respondent has registered the disputed domain name with full knowledge of Complainant's Trademark.

The combination of words "pro" and "man" are distinctive to Complainant's services, as evidenced by Complainant's registration of its PROMAN mark since several years. Thus, given the likelihood of confusion, Respondent has registered the disputed domain name in contemplation of an attempt to take advantage of the reputation of Complainant's Trademark.

Moreover, the disputed domain name resolves to an error page and has never been used. Complainant claims that Respondent fails to make an active use of the disputed domain name, which evidences bad faith.

Finally, once contacted by Complainant to settle this case outside of court, Respondent answered with a price of EUR 49,000. Complainant contends that, after being unable to use it, Respondent now intends to sell it back for valuable consideration in excess of the cost of registration.

On these bases, Complainant concludes that Respondent has registered and is using the disputed domain name in bad faith.

Complainant requests that the disputed domain name be transferred to Complainant.

## **B. Respondent**

Respondent filed a Response stating, in summary and in so far as relevant, the following.

Respondent confirmed that the disputed domain name is for sale. He had no intention of activating any business or website by using the Trademark since spring 2017. As Dutch law changed, his plans became meaningless. The company stopped by December 31, 2021.

Respondent argues that the rights of individuals to what is rightfully theirs, should not be neglected and should not be weighed against the interests of a larger corporation.

Respondent was asked if he was willing to sell the disputed domain name, without specifying who the buyer would be. He replied in the affirmative and quoted his price. It was not helpful that the buyer offered only 4% of the asking price. Respondent concluded that the buyer was not seriously interested and ended the negotiations.

According to Respondent, this procedure is only used to obtain the disputed domain name at a lower price. Respondent remains open to serious negotiations.

## 6. Discussion and Findings

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

- a. the disputed domain name is identical or confusingly similar to:
  - I. a trademark, or trade name, protected under Dutch law in which Complainant has rights; or
  - II. a personal name registered in the General Municipal Register ("*gemeentelijke basisadministratie*") of a municipality in the Netherlands, or the name of a Dutch public legal entity or the name of an association or foundation registered in the Netherlands under which Complainant undertakes public activities on a permanent basis; and
- b. Respondent has no rights to or legitimate interests in the disputed domain name; and
- c. the disputed domain name has been registered or 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 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.<sup>1</sup>

Based on the available record, the Panel finds Complainant has shown rights in respect of a trademark protected under Dutch law for the purposes of the Regulations. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the Trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the Trademark for the purposes of the Regulations. [WIPO Overview 3.0](#), section 1.7.

Consequently, the Panel finds that the requirement of article 2.1(a) of the Regulations has been satisfied.

### B. Rights or Legitimate Interests

Article 2.1(b) of the Regulations requires Complainant to demonstrate that Respondent has no rights to or legitimate interests in the disputed domain name. This condition is met if Complainant makes out a prima facie case that Respondent has no such rights or legitimate interests and if Respondent fails to rebut this (see, e.g., *Technische Unie B.V. and Otra Information Services v. Technology Services Ltd.*, WIPO Case No. [DNL2008-0002](#)).

A respondent may demonstrate such rights or legitimate interests on its part inter alia through the following circumstances listed in article 3.1 of the Regulations:

- a. before having any notice of the dispute, [respondent] made 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;

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<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. [respondent] as an individual, business or other organization is commonly known by the domain name;
- c. [respondent] is making a legitimate noncommercial use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish or otherwise damage the relevant trademark, trade name, personal name, name of a Dutch public legal entity or name of an association or foundation located in the Netherlands.

Having reviewed the record, the Panel finds Complainant has established a prima facie case that 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 did not assert any particular right or legitimate interest in his Response. Although in a prior email exchange with Complainant's representatives Respondent claimed that it acquired the disputed domain name as a plan to start a new company to provide administrative services to independent professionals, Respondent failed to provide any supporting evidence in this regard.

Moreover, Respondent has expressly informed in its Response that it has "no intentions to activate any company or a website by this name since spring 2017" and that "C'est un nom fort, court, universel et 'internationale' a ce qui concerne la prononciation." Respondent did, however, not provide any explanation as to why it specifically chose these terms, "pro" and "man" to compose the disputed domain name..

Respondent relied on the fact that the disputed domain name is his property. This may be true to a degree (and the disputed domain name is a portmanteau with possible coexisting uses), but the Panel cannot escape the fact that Respondent is in the same field as Complainant which does not support a claim to a right or legitimate interest under the Regulation.

The Panel therefore finds that Complainant has met its burden within the meaning of article 2.1(b) of the Regulations.

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

Article 3.2 of the Regulations sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and/or 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.

In the present case, the Panel notes that Respondent has acquired the disputed domain name on January 27, 2017. For the purpose of determining whether there was bad faith in this case, this date is decisive.

Complainant demonstrated, and Respondent has not denied, that it is a leading independent player in the field of temporary work and human resources. The Trademark enjoyed a strong reputation already in 2016 and 2017,

Most critically to the assessment in this case, the Panel points out that it is well established that Respondent worked as a recruiter which is the same area as Complainant. Upon searching for Respondent's name on Google, the first result leads to the website "www.volderenco.nl", seemingly registered by Respondent, advertising recruitment services.

In 2017, Complainant held valid trademark rights in the Benelux. Panels have found that respondents who (deliberately) fail to search and/or screen registrations against available online databases would be responsible for any resulting abusive registrations under the concept of willful blindness.

[WIPO Overview 3.0](#), section 3.2.3. A simple search for the PROMAN Trademark would have alerted Respondent of the substantial trademark use by Complainant.

The Panel further notes that Respondent registered the disputed domain name incorporating Complainant's Trademark in its entirety, without any other terms added. (See Section 3.1.4 of the [WIPO Overview 3.0](#) that states that "the mere registration of a domain name that is identical or confusingly similar (...) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith".)

This is a service for which Complainant has used the Trademark extensively in Europe and for which the Trademark was registered in the Benelux at the time Respondent acquired disputed domain name.

Given these circumstances the Panel finds it more likely than not that Respondent was aware of Complainant and its Trademark and therefor has acquired the disputed domain name in bad faith.

In light of the Panel's finding regarding acquiring the disputed domain name in bad faith, it is not necessary for the Panel to make any finding regarding the use of the disputed domain name.

The requirement of registration or use in bad faith of the disputed domain name pursuant to article 2.1(c) of the Regulations has therefore been met.

## **7. Decision**

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the disputed domain name <proman.nl> be transferred to Complainant.

*/Richard C.K. van Oerle/*

**Richard C.K. van Oerle**

Panelist

Date: January 29, 2025