

ADMINISTRATIVE PANEL DECISION

Press Ganey Associates LLC v. Name Redacted Case No. D2024-4574

1. The Parties

The Complainant is Press Ganey Associates LLC, United States of America (“United States”), represented by Quarles & Brady LLP, United States.

The Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <pressganeyllc.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 7, 2024. On November 7, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 7, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (Registration Private) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 8, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on November 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”).

¹The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this 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Annex 1 to the Registrar as part of the order in this proceeding and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case.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](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on November 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 1, 2024. On November 15, 2024, a third party sent an email to the Center stating that it received the Center's notice regarding the Complaint, however it was unaware of the content of the Complaint and requested that the Center send a copy of the Complaint for the opportunity to review and respond. On November 26, 2024, the third party sent an email requesting an extension to the Response due date. On November 27, 2024, the Center confirmed that the due date for Response was extended to December 5, 2024, in accordance with the paragraph 5(b) of the Rules. On November 27, 2024, the third party filed its submission. Accordingly, the Center notified the commencement of panel appointment process on December 6, 2024.

The Center appointed Steven Auvil as the sole panelist in this matter on December 11, 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

According to the amended Complaint, the Complainant is a limited liability company located in Indiana, United States.

The Complainant owns two United States trademark registrations for the PRESS GANEY brand, registration No. 2228347, registered March 2, 1999, and registration No. 4021466, registered September 6, 2011. The Complainant also owns Australia trademark registration No. 873559, registered April 24, 2001, and Canada trademark registration No. TMA521871, registered January 19, 2000. According to the amended Complaint, the Complainant has used the PRESS GANEY mark continuously and extensively since 1985 and has owned the domain name <pressganey.com> since 1996.

The disputed domain name was registered on August 21, 2024. According to the Complaint, the disputed domain name has been used to interact with individuals and offer fake job opportunities to applicants. Further, the Complainant alleges that the Respondent is impersonating the Complainant's Human Resources employees by offering individuals interviews and job offers and asking individuals to pay for office equipment in advance of hiring. As of the filing of the Complaint, the disputed domain name redirects to the Complainant's website at "www.pressganey.com".

5. Parties' Contentions

A. Complainant

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

The Complainant first contends that the disputed domain name is confusingly similar to the PRESS GANEY mark because the disputed domain name incorporates the entirety of the Complainant's PRESS GANEY mark with the addition of the non-distinctive term "llc", which does not mitigate the confusing similarity between the Complainant's PRESS GANEY mark and the disputed domain name.

The Complainant also alleges that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, the Respondent is not commonly known by the disputed domain name, nor is the disputed domain name being used for a bona fide offering of goods or services, or legitimate noncommercial or fair use. Additionally, the Complainant alleges that it is not affiliated with the Respondent nor has the Complainant licensed or otherwise permitted the Respondent to use the PRESS GANEY mark.

The Complainant alleges that the Respondent registered and used the disputed domain name in bad faith for several reasons. First, the Complainant alleges that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's PRESS GANEY mark. Second, the Complainant alleges that the Respondent has used the disputed domain name solely for the purpose of impersonating the Complainant by redirecting the disputed domain name to the Complainant's website. Third, the Complainant alleges that the Respondent is using the disputed domain name to interact with individuals to offer fake jobs to applicants and asking the individuals to pay for their office equipment in advance of hiring.

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

B. Respondent

The Respondent did not reply to the Complainant's contentions in the Complaint or the amended Complaint.

On November 27, 2024, a third party originally identified as the Respondent contacted the Center and indicated that it did not own, control, or have any association or connection with the disputed domain name. The third party also stated that it was not familiar with the email address or individual referenced in the registrant information, evidencing the unauthorized use of its identity/contact details in relation to the disputed domain name. The third party further indicated that it does not object to the transfer of the disputed domain name to the Complainant.

6. Discussion and Findings

According to paragraph 15(a) of the Rules: "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following to obtain relief:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or a service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a Response, the Panel is entitled to accept as true the allegations set forth in the Complaint (unless the evidence is clearly contradictory), and to derive reasonable inferences from the evidence presented. See *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#).

Based on the foregoing guidance, the Panel makes the following findings and conclusions based on the allegations and evidence contained in the Complaint and the amended Complaint and reasonable inferences drawn from the evidence presented.

A. Identical or Confusingly Similar

It is well accepted that the first element of the Policy 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.

The evidence submitted by the Complainant supports the conclusion that the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. The Complainant owns several registered trademarks for the PRESS GANEY brand. [WIPO Overview 3.0](#), section 1.2.1.

The evidence also supports the conclusion that the disputed domain name is confusingly similar to the Complainant's PRESS GANEY mark. As set forth in [WIPO Overview 3.0](#), section 1.7, when the entirety of a mark is reproduced within the disputed domain name, or "at least a dominant feature of the relevant mark is recognizable in the domain name", the disputed domain name is deemed confusingly similar to the mark for the purposes of the Policy.

Here, the disputed domain name includes the entirety of the Complainant's PRESS GANEY mark with the suffix "llc". This additional term does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8, and *Beachbody, LLC v. Anonymous Registrant / US BEACHBODYYY LLC*, WIPO Case No. [D2010-1684](#).

Additionally, as set forth in section 1.11.1 of [WIPO Overview 3.0](#), the applicable generic Top-Level Domain ("gTLD") (e.g., ".com", ".site", ".info", ".shop") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. As such, the use of ".com" gTLD in the disputed domain name has no bearing on the confusing similarity analysis.

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. Such circumstances include:

- (i) before any notice of the dispute, the respondent used, or prepared to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services;
 - (ii) the respondent (as an individual, business, or other organization) is commonly known by the disputed domain name, even if the respondent has acquired no trademark or service mark rights; or
 - (iii) the respondent is making a 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.
- [WIPO Overview 3.0](#), section 2.1.

Although 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 difficult task of "proving a negative." As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests in a disputed domain name, 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the evidence of record, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The evidence demonstrates that the Respondent is using the disputed domain name in an attempt to pass itself off or impersonate the Complainant. Panels have held that the use of a domain name for illegitimate activity, such as impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The disputed domain name consists of the Complainant's trademark and the additional term "llc", which the Panel views as alluding to the Complainant's status as a limited liability company, often abbreviated as "LLC". Therefore, the composition of the disputed domain name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1. The Respondent has not attempted to rebut the Complainant's prima facie showing; in fact, the Respondent 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. There is no evidence that the Complainant has licensed or otherwise authorized the Respondent's use of PRESS GANEY mark as a domain name, nor is there evidence that the Respondent has any affiliation, association, sponsorship, or connection with the Complainant.

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 non-exclusive circumstances that, if found by the Panel to be present, is evidence of the registration and use of a domain name in bad faith. Such circumstances include, among others, where "the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor," and where "by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website 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 the respondent's website or location or of a product or service on the respondent's website or location." [WIPO Overview 3.0](#), section 3.1.

Additionally, section 3.2.1 of the [WIPO Overview 3.0](#) provides that "[p]articular circumstances panels may take into account in assessing whether the respondent's registration of a domain name is in bad faith include: (i) the nature of the domain name (e.g., a typo of a widely-known mark, or a domain name incorporating the complainant's mark plus an additional term such as a descriptive or geographic term, or one that corresponds to the complainant's area of activity or natural zone of expansion); [...] (vi) a clear absence of rights or legitimate interests coupled with no credible explanation for the respondent's choice of the domain name, or (viii) other indicia generally suggesting that the respondent had somehow targeted the complainant."

In the present case, the Panel concludes that the Respondent registered and is using the disputed domain name in bad faith. The disputed domain name incorporates the entirety of the Complainant's registered and well-known PRESS GANEY mark. Moreover, the Panel finds that the Respondent has engaged in using the disputed domain name to impersonate the Complainant and offer fake job opportunities and solicit financial information. The redirection of the disputed domain name to the Complainant's website gives the Internet users a wrong impression that the disputed domain name was registered and used by the Complainant. The Respondent has also used a third party's name and contact details in its registration of the disputed domain name to further hide its true identity.

Considering this and other circumstances, including the failure of the Respondent to respond to the Complaint or the amended Complaint, the Panel finds that the Respondent knew of the Complainant's PRESS GANEY mark at the time of registering the disputed domain name and endeavored to unfairly capitalize on the mark for commercial gain. The Panel therefore concludes that the disputed domain name was registered and is being used in bad faith.

The Panel therefore finds that the 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 <pressganeyllc.com> be transferred to the Complainant.

/Steven Auvil/

Steven Auvil

Sole Panelist

Date: December 25, 2024