

## **ADMINISTRATIVE PANEL DECISION**

Serveng Civilsan S/A Empresas Associadas de Engenharia v. Stanley Pace  
Case No. D2024-5313

### **1. The Parties**

The Complainant is Serveng Civilsan S/A Empresas Associadas de Engenharia, Brazil, represented by Pinheiro, Nunes, Arnaud & Scatamburlo S/C, Brazil.

The Respondent is Stanley Pace, United States of America ("U.S."), represented by John Berryhill, Ph.d., Esq., U.S.

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

The disputed domain name <serramar.com> is registered with GoDaddy.com, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 26, 2024. On December 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 27, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 7, 2025, 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 January 10, 2025.

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 the Respondent of the Complaint, and the proceedings commenced on January 13, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 2, 2025. On January 30, 2025, the Respondent requested a four-day extension to submit the Response, the Center informed of the Parties that the due date

for Response was extended to February 6, 2025. The Response was filed with the Center on February 6, 2025. On February 10, 2025, the Complainant filed a supplemental filing with the Center.

The Center appointed Rebecca Slater as the sole panelist in this matter on February 18, 2025. 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**

The Complainant is a Brazilian company that was founded in 1958. It focuses on infrastructure and builds ports, airports, subways, railways, stadiums, hydroelectric plants and industrial assemblies. It also operates in mining and urban development.

The Complainant holds registrations for the SERRAMAR word mark, including Brazilian Trade Mark Registration No. 820177075 (registered on October 5, 1999) and Brazilian Trade Mark Registration No. 820177083 (registered on October 5, 1999) (the "Trade Mark").

The Complainant also holds other Brazilian trade mark registrations for word marks that incorporate the Trade Mark, including SERRAMAR SHOPPING (Registration No. 902895290, registered on February 18, 2014), SERRAMAR OFFICE (Registration No. 902895486, registered on February 18, 2014), and SERRAMAR LOTEAMENTOS (Registration No. 902895354, registered on February 18, 2014).

The Respondent is an individual, Stanley Pace, located in the U.S.. The Respondent acquired the disputed domain name in a publicly advertised auction of expired domain names.

The disputed domain name was registered on May 8, 2016.

The disputed domain name currently resolves to a page displaying pay-per-click ("PPC") links. The page states "The domain serramar.com may be for sale. Click here to inquire about this domain".

#### **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.

Notably, the Complainant contends that:

The disputed domain name is composed of the Trade Mark and is confusingly similar to the Trade Mark.

The Respondent does not hold any trade marks consisting of, or containing, the Trade Mark and has not been licensed or authorized by the Complainant to use the Trade Mark.

The website that the disputed domain name resolves to does not reference the Respondent or its activities. The only plausible explanation is that the Respondent registered the disputed domain name to exploit the reputation and goodwill of the Complainant and the Trade Mark. Passive holding does not prevent a finding of bad faith.

## B. Respondent

The Respondent contends that the Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Respondent contends that:

“Serra mar” is a common and widely used two-word phrase containing the Portuguese words for “mountain” and “sea”. The phrase is used by countless businesses in Brazil, Portugal, Spain, Italy, and the U.S.. It is not exclusively, or even prominently, associated with the Complainant.

“Serramar” appears to be the name of a mixed-use shopping center in Brazil. The Complainant has not provided any detail in relation to its volume of customers, geographic spread or any other measure of reputation. It cannot be assumed that an individual residing in Texas, U.S. would have knowledge of the Trade Mark.

The Complainant does not allege that the Respondent has targeted the Complainant by acquiring the disputed domain name.

The Respondent purchased the disputed domain name, as a variant of the Spanish equivalent “Sierra Mar”, which enjoys widespread popularity in connection with diverse businesses. The use of common words and phrase for advertising purposes and the mere offering for sale of dictionary words and geographic terms capable of a wide range of potential meanings and uses, is not itself an illegitimate activity, absent evidence of targeting of a particular mark owner.

The Respondent provided a list of examples of the use of “Serra Mar” as a domain name or trade mark by businesses across a range of industries, both within and outside of Brazil.

The Complainant’s claim of “passive holding” fails on every element of the doctrine.

## 6. Discussion and Findings

To succeed, the Complainant must demonstrate that all the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

1. the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;
2. the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
3. the disputed domain name has been registered and is being used in bad faith.

The onus of proving these elements is on the Complainant.

The standard of proof under the Policy is often expressed as the “balance of the probabilities” or “preponderance of the evidence” standard. Under this standard, an asserting party needs to establish that it is more likely than not that the claimed fact is true. This burden cannot be met by simply making conclusory statements unsupported by evidence. To allow a party to merely make factual claims without any supporting evidence would essentially eviscerate the requirements of the Policy as complainants or respondents could simply claim anything without any proof. For this reason, UDRP panels have generally dismissed factual allegations that are not supported by any bona fide documentary or other credible evidence. *Captain Fin Co. LLC v. Private Registration, NameBrightPrivacy.com / Adam Grunweg*, WIPO Case No. [D2021-3279](#); *Talend S.A.S. v. Attila Balint Nag*, WIPO Case No. [D2024-4696](#).

## **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.

The 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 entirety of the Trade Mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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

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

In light of the Panel's findings in relation to the third element, it is unnecessary to consider this element.

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

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used the disputed 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 is 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.

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by (usually) the complainant. *Instagram, LLC v. Domains By Proxy, LLC / Masud Rana, D-limit Ltd*, WIPO Case No. [D2022-0250](#).

In the Panel's view, the Trade Mark is not well-known to the public at large. The Complainant's use of the Trade Mark appears to be confined to use in the construction industry in Brazil (and possibly just to a single development in Brazil).

The Panel has not seen any evidence that suggests that the Respondent (a resident of the U.S.) was likely aware of the Complainant or the Trade Mark when the Respondent registered the disputed domain name. Additionally, there is no evidence: (a) that the Complainant has used or advertised the Trade Mark in the U.S.; or (b) of any sales of any products or services by the Complainant under the Trade Mark in the U.S..

The fact that the page displays PPC links is not a sufficient basis on the present record to find that the Complainant has satisfied the bad faith element of the Policy. As one example of bad faith, the Policy provides that the Respondent registered the disputed domain name intentionally to attempt to attract Internet users by creating a likelihood of confusion with Trade Mark. There is no evidence that the Respondent has targeted the Complainant. The links at the directory page to which the disputed domain name resolves (both at the time of filing the Complaint and currently) have no obvious connection to the Complainant and its disclosed activities.

Accordingly, the Panel does not consider that there is sufficient evidence to conclude that the Respondent registered the disputed domain name knowing of, or because of, the Complainant or the Trade Mark.

The Complainant asserts that the Respondent's use of the disputed domain name constitutes passive holding and cites the [WIPO Overview 3.0](#). The Complainant has not provided any evidence to satisfy the test for whether the claimed passive holding (i.e., setting aside that there are PPC links and an offer to sell as opposed to no content whatsoever) constitutes bad faith as set out in *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

The Complainant has not referred to the availability of the disputed domain name for purchase in its submissions on this element. For completeness, the Panel notes that panels have found that the practice of registering a domain name for subsequent resale (including for a profit) would not by itself support a claim that the respondent registered the domain name in bad faith with the primary purpose of selling it to a trademark owner (or its competitor). [WIPO Overview 3.0](#), section 3.1.1.

Accordingly, the Panel does not consider that there is sufficient evidence to conclude that the Respondent has used the disputed domain name in bad faith to take advantage of the Trade Mark. The evidence in the case file as presented does not indicate that the Respondent's aim in registering the disputed domain name was to profit from or exploit the Trade Mark.

The Panel finds the third element of the Policy has not been established.

## **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Rebecca Slater/*

**Rebecca Slater**

Sole Panelist

Date: February 24, 2025