

## **ADMINISTRATIVE PANEL DECISION**

PrideStaff, Inc. v. Shagun Duggal, Pridestaffing  
Case No. D2022-3830

### **1. The Parties**

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

The Respondent is Shagun Duggal, Pridestaffing, India.

### **2. The Domain Names and Registrars**

The disputed domain names <pridestaffingllc.com> (the “first Disputed Domain Name”), and <pridstaffing.com> (the “second Disputed Domain Name”) (together the “Disputed Domain Names”), are registered with GoDaddy.com, LLC and NameCheap, Inc., respectively (the “Registrars”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 12, 2022. On October 13, 2022, the Center transmitted by email to the Registrars a request for registrar verification in connection with the Disputed Domain Names. On October 13, 2022 and October 17, 2022, the Registrars transmitted by email to the Center their respective verification response disclosing registrant and contact information for the Disputed Domain Names, which differed from the named Respondent (Domains By Proxy, LLC and Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 18, 2022 providing the registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on October 24, 2022.

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 October 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 18, 2022.

The Center appointed Flip Jan Claude Petillion as the sole panelist in this matter on November 30, 2022. 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, PrideStaff, Inc., is a U.S. corporation founded in 1978. The Complainant provides professional staffing services for both employers with professional staffing needs and individuals looking for job placement services. The Complainant has over 85 offices in the U.S.

The Complainant owns the following trademark:

- PRIDESTAFF, United States Trademark registered on November 25, 1997 under Registration No. 2,116,589 and covering class 35.

The Disputed Domain Names were registered on the following dates:

- <pridestaffingllc.com>: March 2, 2022;
- <pridstaffing.com>: July 11, 2022.

The first Disputed Domain Name <pridestaffingllc.com> redirects to the second Disputed Domain Name <pridstaffing.com>. The latter resolves to a website purporting to offer services similar to the Complainant's services.

The Complainant refers to two prior domain name disputes in which it prevailed against the Respondent, involving the domain names <pridestaffing.in> and <pridestaffings.com> respectively (see *Pridestaff, Inc. vs Shagun Duggal*, IN Domain Name Dispute Resolution Policy ("INDRP") Case No. 1489; and *PrideStaff, Inc. v. Registration Private, Domains By Proxy, LLC / Shagun Duggal, Pridestaffing*, WIPO Case No. [D2022-2910](#)). The Panel notes that the domain name <pridestaffings.com> was registered on the same day as the Disputed Domain Name <pridestaffingllc.com>.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant considers the Disputed Domain Names to be confusingly similar to a trademark in which it claims to have rights.

The Complainant further claims that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names. In summary, according to the Complainant:

- the Respondent is neither a franchisee nor otherwise affiliated with the Complainant;
- the Respondent is using the Disputed Domain Names for illegitimate purposes which do not equate to a *bona fide* offering of services in connection with the Disputed Domain Names.

Finally, the Complainant claims that the Disputed Domain Names were registered and are being used in bad faith. Amongst other arguments, the Complainant contends that given the Complainant's reputation and long-standing use of its mark, it is implausible that there could be any good faith use to which the Disputed Domain Names could be put. According to the Complainant, the Respondent undoubtedly registered the Disputed Domain Names to capitalize on the goodwill associated with the Complainant's mark. Moreover, the Complainant claims that the email function of first Disputed Domain Name has been enabled, which indicates that this Disputed Domain Name may be used for fraudulent email communications by implying an

affiliation with the Complainant. The Complainant also claims that the Respondent has engaged in a pattern of registering domain names in bad faith containing the Complainant's mark.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

### **6.1. Preliminary Procedural Issue: Consolidation of Multiple Domain Names and Respondents**

Paragraph 10(e) of the Rules generally empowers panels to consolidate multiple domain name disputes in accordance with the Policy and the Rules. Paragraph 3(c) of the Rules provides that a complaint may relate to more than one domain name only when the domain names are registered by the same domain name holder. Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all parties.

Procedural efficiency would also underpin panel consideration of such a consolidation scenario.

Panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in or relevant aspects of

- (i) the registrants' identity(ies) including pseudonyms;
- (ii) the registrants' contact information including email address(es), postal address(es), or phone number(s), including any pattern of irregularities;
- (iii) relevant IP addresses, name servers, or webhost(s);
- (iv) the content or layout of websites corresponding to the disputed domain names;
- (v) the nature of the marks at issue (e.g., where a registrant targets a specific sector);
- (vi) any naming patterns in the disputed domain names (e.g., <mark-country> or <mark-goods>);
- (vii) the relevant language/scripts of the disputed domain names particularly where they are the same as the mark(s) at issue;
- (viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s);
- (ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s),
- (x) any (prior) pattern of similar respondent behavior or
- (xi) other arguments made by the complainant and/or disclosures by the respondent(s) (see section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#))).

In the present case, the Complainant presented a variety of factors justifying a consolidation scenario, including the following:

- both Disputed Domain Names were registered under the same name ("Shagun Duggal", with or without capital letters, as disclosed by the Registrars), mention the same term either as the organization or in the provided address ("Pridestaffing") and mention the same country (India);
- the email address provided on the website linked to the second Disputed Domain Name [..]@pridestaffingllc.com, corresponds to the first Disputed Domain Name;
- although the email addresses provided for each Disputed Domain Name are different, the Complainant shows that both addresses were used by the Respondent in previous UDRP disputes involving the Complainant.

In addition, the Panel observes that one Disputed Domain Name redirects to the other Disputed Domain Name. In view of the above, the Panel finds that the Disputed Domain Names are subject to the common ownership or control of the same entity or person. The Panel also considers the consolidation of both

Disputed Domain Names to be fair and procedurally efficient.

Accordingly, the Panel concludes that the consolidation of both Disputed Domain Names asserted by the Complainant against the Respondent is consistent with the Policy and Rules. The Panel will proceed to a decision on the merits regarding both Disputed Domain Names.

## **6.2. Substantive elements of the Policy**

Paragraph 15 of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

The onus is on the Complainant to make out its case and it is apparent, both from the terms of the Policy and the decisions of past UDRP panels, that the Complainant must show that all three elements set out in paragraph 4(a) of the Policy have been established before any order can be made to transfer the Disputed Domain Names. As the proceedings are administrative, the standard of proof is the balance of probabilities.

Thus, for the Complainant to succeed, it must prove, within the meaning of paragraph 4(a) of the Policy and on the balance of probabilities that:

- i. the Disputed Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- ii. the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names; and
- iii. the Disputed Domain Names have been registered and are being used in bad faith.

The Panel will deal with each of these requirements in turn.

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

To prove this element, the Complainant must first establish that there is a trademark or service mark in which it has rights. The Complainant has clearly established that there is a trademark in which it has rights. The Complainant's PRIDESTAFF trademark has been registered since 1997 and used in connection with the Complainant's job placement services.

The Panel observes that both Disputed Domain Names incorporate the Complainant's PRIDESTAFF trademark.

The first Disputed Domain Name adds the terms "ing" and "llc" to the Complainant's mark. The second Disputed Domain Name adds the terms "ing" to an obvious misspelling of the Complainant's mark, simply leaving out the letter "e". The Panel finds that the removal of one letter in the Complainant's mark can be considered as "typosquatting" and is confusingly similar to the Complainant's mark (see section 1.9 of the [WIPO Overview 3.0](#)).

Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element (see section 1.8 [WIPO Overview 3.0](#)). The Panel finds that the Complainant's mark is recognizable in both Disputed Domain Names (see also *PrideStaff, Inc. v. S. Singh*, WIPO Case No. [D2021-4081](#)).

Additionally, it is well established that generic Top-Level Domains ("gTLDs"), here ".com", may be disregarded when considering whether a disputed domain name is confusingly similar to a trademark in which a complainant has rights.

In light of the above, the Panel considers the Disputed Domain Names to be confusingly similar to the Complainant's PRIDESTAFF trademark.

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

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* showing that the Respondent has no rights or legitimate interests in the Disputed Domain Names in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

The Panel notes that the Respondent does not appear to be commonly known by the Disputed Domain Names and that the Respondent does not seem to have acquired trademark or service mark rights (there being no Response or evidence of any such rights). The Panel finds that mentioning “Pridestaffing” as the organization in the Whois records for the Disputed Domain Name <pridestaffingllc.com> does not mean that the Respondent has been commonly known by that name. The Respondent’s use and registration of the Disputed Domain Names was not authorized by the Complainant. There are no indications that a connection between the Complainant and the Respondent exists.

Where a domain name consists of a trademark plus an additional term, UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner (see section 2.5.1 of the [WIPO Overview 3.0](#)). In the present case, the Panel finds that the Disputed Domain Names carry a risk of implied affiliation with the Complainant and cannot constitute fair use. The first Disputed Domain Name adds the terms “ing” and “llc” to the Complainant’s mark. In the Panel’s view, the common abbreviation “llc” for a business structure may create confusion as to a potential link with the Complainant’s company. The Panel also finds that the addition of the term “ing” to the “staff” part of the Complainant’s mark can easily be considered as referring to the Complainant’s services related to staffing. This also applies to the second Disputed Domain Name. Moreover, the Panel finds that the removal of the letter “e” does not prevent a risk of implied affiliation with the Complainant’s mark.

Beyond looking at the domain names and the nature of any additional terms appended to it, UDRP panels assess whether the overall facts and circumstances of the case, such as the content of the website linked to the disputed domain names and the absence of a response, support a fair use or not (see sections 2.5.2 and 2.5.3 of the [WIPO Overview 3.0](#)).

The Panel observes that the first Disputed Domain Name redirects to the second Disputed Domain Name. The latter resolves to a website purporting to offer services similar to the Complainant’s services. The Panel observes that there are currently no jobs posted on this website, and some parts of the website even mention placeholder text, which is obviously to be replaced. In the Panel’s view, this does not amount to a *bona fide* offering of goods and services.

The Respondent had the opportunity to demonstrate his rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the *prima facie* case established by the Complainant has not been rebutted.

Therefore, the Panel finds that the Complainant has established that the Respondent has no rights or legitimate interests in the Disputed Domain Names.

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

The Complainant must prove on the balance of probabilities both that the Disputed Domain Names were registered in bad faith and that these are used in bad faith (see section 4.2 of the [WIPO Overview 3.0](#) and, for example, *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), and *Control Techniques Limited v. Lektronix Ltd*, WIPO Case No. [D2006-1052](#)).

Paragraph 4(b) of the Policy provides a non-exclusive list of factors, any one of which may demonstrate bad faith. Among these factors demonstrating bad faith registration and use is the use of a domain name to intentionally attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

In the present case, the Panel finds that it is inconceivable that the Respondent was unaware of the Complainant and its trademark rights when it registered the Disputed Domain Names. The Complainant refers to at least one previous domain name dispute against the Respondent which concluded before both Disputed Domain Names were registered (see *Pridestaff, Inc. vs Shagun Duggal*, INDRP Case No. 1489. In the Panel's view, the Respondent's awareness of the Complainant's trademark rights at the time of registration suggests bad faith (see *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#), where it was held that the respondent acted in bad faith when registering the disputed domain name, because widespread and long-standing advertising and marketing of goods and services under the trademarks in question, the inclusion of the entire trademark in the domain name, and the similarity of products implied by addition of a telecommunications services suffix "voip" suggested knowledge of the complainant's rights in the trademarks).

As mentioned above, the website (directly or indirectly) linked to the Disputed Domain Names purportedly provides staffing services similar to the Complainant's services. Moreover, the Panel observes that this website creates the impression that it is operated by a U.S. company, using a U.S. phone number and physical addresses located in the U.S. As the Complainant has shown longstanding use of its PRIDESTAFF mark in the U.S., the Panel finds it more likely than not that the Respondent registered and uses the Disputed Domain Names to intentionally attempt to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of this website.

The Complainant provides evidence showing that the email function of the first Disputed Domain Name is enabled. In the circumstances of the present case, the Panel finds that the use of the first Disputed Domain Name for fraudulent activity cannot be excluded, e.g. by profiting of the likelihood of confusion with the Complainant's trademark for phishing activities through the sending of emails.

In addition, the Complainant shows that on at least two previous occasions, the Respondent has been found by UDRP or similar panels to have engaged in abusive domain name registrations targeting the Complainant. In the Panel's view, such pattern of recent abusive conduct constitutes further evidence of bad faith (see section 3.1.2 of the [WIPO Overview 3.0](#)).

Finally, by failing to respond to the Complaint, the Respondent did not take any initiative to contest the foregoing. Pursuant to paragraph 14 of the Rules, the Panel may draw the conclusions it considers appropriate.

Therefore, the Panel finds that, on the balance of probabilities, it is sufficiently shown that the Disputed Domain Names were registered and are used in bad faith. In light of the above, the Complainant also succeeds on the third and last 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 Names, <pridestaffingllc.com>, and <pridstaffing.com>, be transferred to the Complainant.

*/Flip Jan Claude Petillion/*

**Flip Jan Claude Petillion**

Sole Panelist

Date: December 14, 2022