

## **ADMINISTRATIVE PANEL DECISION**

PrideStaff, Inc. v. Monique Simms, Pridestaff  
Case No. D2023-3788

### **1. The Parties**

The Complainant is PrideStaff, Inc., United States of America, represented by Frost Brown Todd LLC, United States of America.

The Respondent is Monique Simms, Pridestaff, United States of America.

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

The disputed domain name <pridestaffingjobs.com> (the “Domain Name”) is registered with Squarespace Domains II LLC (the “Registrar”)<sup>1</sup>.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 12, 2023. On September 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 13, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name, which differed from the named Respondent (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 13, 2023, 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 September 20, 2023.

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 September 21, 2023. In accordance with the Rules,

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<sup>1</sup> The Complaint was filed identifying the Registrar as Google LLC. On October 2, 2023, Google LLC confirmed that the Domain Name is registered with Squarespace Domains II LLC following a purchase agreement. Google LLC has confirmed both Registrars’ compliance with the UDRP and the implementation of the decision by either Registrar.

paragraph 5, the due date for Response was October 11, 2023. The Respondent did not submit any formal response, but the Center received an informal email communication from the Respondent's email address on September 21, 2023. Accordingly, the Center notified the commencement of panel appointment process on October 12, 2023.

The Center appointed Michelle Brownlee as the sole panelist in this matter on October 16, 2023. 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 owns United States Trademark Registration Number 2,116,589 (the "Registration"), registered on November 25, 1997, for the mark PRIDESTAFF in connection with "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" in International Class 35.

The Domain Name was registered on July 20, 2023. The Domain Name resolves to an error page without any content.

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

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

The Complainant states that it was founded in 1978 and has used the PRIDESTAFF trademark continuously in connection with the services listed in the Registration since at least as early as 1995. The Complainant states that it is in the business of providing professional staffing services for both employers with staffing needs and individuals seeking job placement services. The Complainant states that it has more than 85 offices in the United States and submits that it is one of the most well-known staffing firms in the United States. The Complainant states that it has used the domain name <pridestaff.com> since 1996 which the Complainant uses to operate a website that allows visitors to learn about the Complainant, request staffing services and apply for posted positions. The Complainant states that it has received numerous awards, including ClearlyRated's "Best of Staffing" and "Best of Staffing Talent Diamond Award", which only a small percentage of staffing firms in North America have achieved.

The Complainant contends that the Domain Name is confusingly similar to its PRIDESTAFF mark, noting that the Domain Name incorporates the mark in its entirety and arguing that the addition of the word "jobs" and the ".com" suffix does not reduce the likelihood of confusion. The Complainant also argues that the Respondent has no rights or legitimate interests in respect of the Domain Name and that the Respondent registered and is using the Domain Name in bad faith. The Complainant notes that the Respondent has set up MX records for the Domain Name, which allow the Respondent to send and receive emails using email addresses associated with the Domain Name. The Complainant contends that the Respondent is likely to use emails associated with the Domain Name to engage in fraudulent activity. The Complainant also argues that the Respondent's use of a privacy shield to hide its identity is further evidence of the Respondent's bad faith. The Complainant also states that the mailing address the Respondent provided in its registration of the Domain Name is one of the Complainant's office locations. The Complainant states that its investigation of its business and employment records revealed no connection between the Respondent and the Complainant and argues that the Respondent's provision of false contact information in the registration of the Domain Name is additional evidence of bad faith.

## B. Respondent

The Respondent did not formally reply to the Complainant's contentions.<sup>2</sup>

## 6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of a domain name, a complainant must prove the following three elements:

- (i) the domain name is 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 domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

### A. Identical or Confusingly Similar

The Complainant has demonstrated that it owns rights in the PRIDESTAFF trademark. The Panel finds that the Domain Name is confusingly similar to the PRIDESTAFF trademark, as the Domain Name includes the trademark in its entirety. The addition of the suffix "-ing" and the word "jobs" do not prevent the finding of confusing similarity. See *PrideStaff, Inc. v. S. Singh*, WIPO Case No. [D2021-4081](#).

### B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides that a respondent can demonstrate rights to or legitimate interests in a domain name by demonstrating one of the following facts:

- (i) before receiving any notice of the dispute, the respondent used or made demonstrable preparations to use the domain name at issue in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name; 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 at issue.

In this case, the Complainant has put forward a *prima facie* case and the burden of production of evidence shifts to the Respondent. No evidence has been presented that the Respondent used or made demonstrable preparations to use the Domain Name in connection with a *bona fide* offering of goods or services; that the Respondent is commonly known by the Domain Name; that the Respondent is making a legitimate noncommercial or fair use of the Domain Name; or in any other way refuted the Complainant's *prima facie* case. Accordingly, the Panel finds that the Complainant has established this element of the Policy.

### C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that the following circumstances are evidence of registration and use of a domain name in bad faith:

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<sup>2</sup> On September 21, 2023, the Center received an email sent from the Respondent's email address that said "Not sure what's this is all about and I'm not Moni or whoever this email belong to but it not me So please stop sending fraudulent things or whatever , My email must be hack cause I'm clueless of this stuff . Thank You !!" (*sic*) This message does not address any of the contentions of the complaint..

- (i) circumstances indicating that the respondent has registered or acquired the domain name at issue primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 its website or location or of a product or service on its website or location.

The Complainant's registration of the PRIDESTAFF trademark predates the Respondent's registration of the Domain Name by more than 25 years, and the Complainant has presented evidence regarding the well-known nature of the PRIDESTAFF trademark. The Respondent has not refuted the Complainant's allegations and evidence. Panels have consistently found 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. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 3.1.4. The Panel finds that the Complainant has established that the Respondent registered the Domain Name in bad faith.

The question of bad faith use of the Domain Name is more difficult because the Complainant has not presented any evidence that establishes any of the circumstances enumerated in paragraph 4(b) of the Policy. The Domain Name is being held passively without any content posted on a website associated with it. [WIPO Overview 3.0](#), section 3.3. states:

"From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or 'coming soon' page) would not prevent a finding of bad faith under the doctrine of passive holding.

While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put."

Considering the distinctiveness and well-known nature of the Complainant's PRIDESTAFF trademark, it is difficult to imagine a good faith use for the Domain Name by anyone other than the Complainant, and the Respondent has not offered any arguments or provided any evidence to support a finding of actual or contemplated good faith use. The Complainant also presented evidence that the Domain Name has been set up with MX records, which suggests that the Respondent intends to use the Domain Name in connection with email communications. The Respondent also provided false contact details by listing the Complainant's office address as the Respondent's address. The totality of the circumstances suggests that the non-use of the Domain Name does not prevent a finding of bad faith. Accordingly, the Panel finds that the Complainant has met its burden of demonstrating bad faith registration and use in this case.

## 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 Domain Name, <pridestaffingjobs.com>, be transferred to the Complainant.

*/Michelle Brownlee/*

**Michelle Brownlee**

Sole Panelist

Date: October 30, 2023