

## **ADMINISTRATIVE PANEL DECISION**

Stockman Bank of Montana v. Domains By Proxy, LLC / Carolina Rodrigues,  
Fundacion Comercio  
Case No. D2022-0590

### **1. The Parties**

The Complainant is Stockman Bank of Montana, United States of America (“U.S.”), represented by 101domain.com, U.S.

The Respondent is Domains By Proxy, LLC, U.S. / Carolina Rodrigues, Fundacion Comercio, Panama.

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

The disputed domain name <stckmanbank.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 February 19, 2022. On February 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. Also on February 21, 2022, 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 and contact information in the Complaint.

The Center sent an email communication to the Complainant on February 25, 2022, 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 March 1, 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 March 8, 2022. In accordance with the Rules, paragraph 5,

the due date for Response was March 28, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 29, 2022.

The Center appointed Gustavo Patricio Giay as the sole panelist in this matter on March 31, 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, Stockman Bank of Montana, was incorporated in 1944 and promotes banking services online under the trademark STOCKMAN BANK

The Complainant is the owner of U.S. trademark registration No. 3,018,890 STOCKMAN BANK, registered on November 29, 2005, for financial services in class 36 and of U.S. trademark registration No. 4,290,830 STOCKMAN BANK, registered on February 19, 2013, for banking services in class 36.

In addition, the Complainant owns the domain name <stockmanbank.com> registered on June 4, 1998, which identifies the website in which the Complainant provides comprehensive financial and banking services, and other domain names which include the trademark STOCKMAN BANK, such as: <stockman.bank>, <stockmanbank.bank>, and <stockman-bank.com>.

The disputed domain name <stckmanbank.com> was registered on December 17, 2021, and resolves to a pay-per-click ("PPC") website with links to third-party websites that offer services similar to those for which the Complainant is known.

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

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

The Complainant claims that it has consistently and consecutively used their trademark STOCKMAN BANK for multiple banking services since 1995, establishing common law trademark rights in addition to their registered trademarks.

In essence, the Complainant claims that the disputed domain name is confusingly similar to the trademark STOCKMAN BANK in which the Complainant has rights and that the Respondent has no rights or legitimate interests in the disputed domain name, which was registered and is being used in bad faith.

More specifically, the Respondent has no rights or legitimate interests in the disputed domain name because the Complainant has not licensed nor allowed the Respondent to use the STOCKMAN BANK trademarks for any purpose and the Complainant is not aware of any trademarks using the term STOCKMAN BANK owned by the Respondent.

The Respondent is not commonly known by the disputed domain name, which it registered for the purpose of disrupting the business of the Complainant and is solely being used to re-direct consumers to either competing banking products of the Complainant or abusive online tactics

The Respondent actively sought to create confusion in the marketplace by purposefully omitting the "o" in STOCKMAN when registering the disputed domain name in December 2021.

In an effort to enforce their rights before escalating this dispute, the Complainant sent a cease and desist letter to the Respondent on January 4, 2022, and followed up with a second letter on January 12, 2022, both of which remained unanswered.

Finally, the Complainant requests the Panel to issue a decision ordering that the disputed domain name be transferred to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with 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 name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

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

As set forth in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain name is confusingly similar with the Complainant's STOCKMAN BANK trademarks.

The disputed domain name incorporates the Complainant's trademark STOCKMAN BANK in its entirety, solely omitting the letter "o" in STOCKMAN, which certainly does not prevent a finding of confusing similarity.

The ".com" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11 of [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark STOCKMAN BANK in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy are fulfilled.

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

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following non-exclusive defenses:

- (i) before any notice to it of the dispute, the respondent's use of, or 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; or
- (ii) the respondent has been commonly known by the domain name, even if it 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.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established, as it is put in section 2.1 of [WIPO Overview 3.0](#), that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain name, enabling it to establish rights or legitimate interests therein.

Furthermore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other circumstances to suggest that the Respondent has rights or legitimate interests in the disputed domain name.

Likewise, and as further discussed under section 6.C of this decision, it does not seem that the Respondent is making any legitimate noncommercial or fair use of the disputed domain name, but rather that it intends to use the disputed domain name for the purpose of deriving unfair monetary advantage through a PPC website, by confusing Internet users and leading them to believe that the site to which the disputed domain name relates is related in some sort with the Complainant.

Panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. See section 2.9 of the [WIPO Overview 3.0](#).

As established in section 2.5 of [WIPO Overview 3.0](#): "Fundamentally, a respondent's use of a domain name will not be considered 'fair' if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant's mark is often central to this inquiry." Here, the nature of the typosquatting disputed domain name is such that it cannot constitute fair use, as further elaborated below in Section C.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name (*Telstra Corporation Ltd. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been fulfilled.

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

The Panel is satisfied that the Respondent must have been aware of the Complainant's trade name and trademarks STOCKMAN BANK mentioned in section 4 above (Factual Background) and also the Complainant's domain name <stockmanbank.com> registered on June 4, 1998, when it registered the disputed domain name <stckmanbank.com> on December 17, 2021. By that time, the Complainant had used the trademark STOCKMAN BANK for over two decades for similar services.

By registering the disputed domain name, the Respondent was targeting the Complainant and its business by incorporating the Complainant's trademark STOCKMAN BANK in its entirety and simply omitting the letter "o", which is tantamount to what is known as "typosquatting", with the intention to confuse Internet users and capitalize on the fame of the Complainant's trade name and trademarks for its own benefit.

The fact that there is a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name, the nature of the disputed domain name, the use of the disputed domain name to resolve to a PPC website with links to third-party websites that offer services similar to those for which the Complainant is known, and the Respondent's failure to respond to two letters sent by the Complainant in order to solve the issue are indicative of bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)). The Panel finds that the Respondent, who has failed to reply to the Complainant's contentions, has registered and is using the disputed domain name in bad faith.

The Complainant has submitted evidence to prove that the Respondent has been Respondent in a long list of previous WIPO cases, which shows that this is certainly not an isolated case where the Respondent has been challenged by a trademark owner for having registered a disputed domain name in bad faith. See, e.g., *ZipRecruiter Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2021-3761](#); *Government Employees Insurance Company v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-3280](#); among others.

For the above reasons, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy have been fulfilled.

## 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 <stckmanbank.com>, be transferred to the Complainant.

*/Gustavo Patricio Giay/*  
**Gustavo Patricio Giay**  
Sole Panelist  
Date: April 20, 2022.