

## **ADMINISTRATIVE PANEL DECISION**

**Bantrel Co. v. Registration Private, Domains By Proxy, LLC / Line Gagnon**  
Case No. D2022-2901

### **1. The Parties**

The Complainant is Bantrel Co., Canada, represented by Norton Rose Fulbright Canada LLP, Canada.

The Respondent is Registration Private, Domains By Proxy, LLC, United States of America (“USA”) / Line Gagnon, Canada.

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

The disputed domain name <bantrelgroup.com> (the “Disputed Domain Name”) 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 August 5, 2022. On August 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 9, 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 August 10, 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 August 11, 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 August 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 1, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 2, 2022.

The Center appointed Jacques de Werra as the sole panelist in this matter on September 9, 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 is one of the largest engineering, procurement, and construction (EPC) firms in Canada. The Complainant primarily services companies and provides consulting services in the oil, gas, chemicals, power, mining and metals, and infrastructure industries across North America (Canada and the USA). The Complainant has also completed projects in other countries (India, Iraq, Iran, Mongolia, and Venezuela).

The Complainant owns various trademarks in Canada containing BANTREL, including trademark registration No. TMA600679 for BANTREL which was registered on January 27, 2004 (“the Trademark”). The Complainant is the registrant of the domain name <bantrel.com> that it uses in order to present its services.

The Disputed Domain Name was registered on July 7, 2022. The email address used for purposes of the registration corresponded to the name of the Manager of Human Resources of the Complainant. The Disputed Domain Name directs users to a parked website containing a series of links entitled “Consulting Services”, “Consulting”, and “Construction and Building Company”. The webpage provides a “pay-per-click” (PPC) parking webpage generator which leads to advertisements being displayed on the webpage, including advertisements for companies offering services that compete with those of the Complainant.

The Respondent has used the Disputed Domain Name to impersonate the Complainant in association with an employment-related phishing scam. In particular, the Complainant was advised that on July 25, 2022, two persons received an email from an individual (“individual 1”) who claimed to be the Director of Human Resources at the Complainant, advising that the Complainant was considering hiring them and requesting that they complete an “Interview Form”. The Interview Form utilized the Complainant’s Trademark and legitimate mailing addresses, and required the purported applicant to provide personal information, such as their full name, address, nationality, date of birth, and telephone number. The Complainant does not employ and has never employed an individual by individual’s 1 name. The Complainant was also advised that a person had received an invitation on August 2, 2022, from an individual (“individual 2”) claiming to be a Human Resources & Recruitment Specialist employed by the Complainant. The Complainant employs a person by individual’s 2 name as its Manager of Human Resources; however, this employee did not send or authorize the sending of this email. All emails were sent by email accounts associated with the Disputed Domain Name (namely “[...]@bantrelgroup.com”). For clarity, none of these emails were authorized by or emanated from the Complainant, whose own emails end with “@bantrel.com”. In furtherance of its employment-related phishing scam, the Respondent also appears to have created at least two fake LinkedIn accounts and a number of false LinkedIn job postings for positions within the Complainant. The LinkedIn accounts were for: (i) Individual 2, Recruiting Specialist; and (ii) Individual 1, Director of HR. On or around July 31, 2022, the fake profile for Individual 2 was removed by LinkedIn in response to the Complainant’s report that this profile represented a phishing attempt. On or around July 26, 2022, counsel for the Complainant submitted a request to LinkedIn that the fake profile for Individual 1 be deactivated, and as of July 27, 2022, the profile, and all LinkedIn job postings associated with the profile, appear to have been deactivated.

#### **5. Parties’ Contentions**

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

The Complainant claims that the Disputed Domain Name wholly contains the Complainant’s Trademark, plus the term “group”. The addition of a generic word to a recognized mark to form a domain name does not dispel confusing similarity between such domain name and the recognized mark. Specifically, recent UDRP panels have held that the addition of the descriptive element “group” does not avoid confusing similarity between the Disputed Domain Name and the Complainant’s Trademark.

The Complainant submits that the Respondent has no rights or legitimate interest in the Disputed Domain Name, because: (a) the Respondent has not been authorized or licensed by the Complainant to use the Trademark in any way, including in respect of the Disputed Domain Name, and has no connection or affiliation with the Complainant; (b) there is no evidence that the Respondent, who registered the Disputed Domain Name as recently as July 7, 2022, has become commonly known by the Disputed Domain Name; (c) the Respondent has never made *bona fide* use of the Disputed Domain Name. In particular, the Respondent did not register the Disputed Domain Name until well after the Complainant had begun using and promoting the Trademark in association with its services and as a result had created widespread recognition of the Trademark. The fact that the Disputed Domain Name contains the Complainant's Trademark in its entirety suggests that the Respondent's intention is to impersonate the Complainant in order to misleadingly divert the Complainant's website users; (d) the Respondent's use of the Disputed Domain Name as a part of an email address that purports, falsely, to be the email address of the Complainant further supports the view that the Respondent has no rights or legitimate interests in the Disputed Domain Name. In particular, by fraudulently holding itself out as the Complainant and requesting personal information from people who falsely believe they are applying for employment with the Complainant, the Respondent is engaging in illegal activities, namely, phishing and fraud. The Disputed Domain Name is further used in connection with a "parked" webpage displaying PPC advertisements that lead consumers to potential competitors of the Complainant, which does amount to a *bona fide* offering of goods or services under the Policy.

On this basis, the Complainant submits that it has demonstrated, at the very least, a *prima facie* case that the Respondent lacks any right or legitimate interest in the Disputed Domain Name. The *onus* falls on the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name, failing which, the Complainant is deemed to have satisfied this second element of the Policy.

The Complainant alleges that the Respondent showed bad faith in registering the Disputed Domain Name on July 7, 2022, when the Trademark was registered and extensively well known in Canada and internationally. The Respondent's use of the Disputed Domain Name in an employment-related phishing scam indicates bad faith. Specifically, that the Disputed Domain Name was used to send emails to people purporting, falsely, to be considering the person for a role with the Complainant and requesting that they provide personal information supports that the Disputed Domain Name was registered and is being used in bad faith. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), paragraphs 3.1.4 and 3.4. The email address used by the Respondent to register the Disputed Domain Name also indicates that the Respondent registered the Disputed Domain Name in bad faith, since it incorporated the name of the Complainant's Manager of Human Resources (identified above as "Individual 2" for purposes of the Respondent's employment-scam). Individual 2 is the Complainant's current Manager of Human Resources, but has no knowledge of or relation to the email address used by the Respondent. In such circumstances, the use of the Complainant's Manager name cannot reasonably be due to a mere coincidence. Rather, the use of the Complainant's Manager name in the registration of the Disputed Domain Name supports that the Respondent was aware of and targeting the Complainant. Given that the Respondent created fake LinkedIn accounts and associated job postings under the Complainant's Manager name, it is clear that the Respondent is using the Disputed Domain Name to impersonate the Respondent in furtherance of its phishing scheme, which constitutes bad faith. See [WIPO Overview 3.0](#), section 3.4.

The Respondent registered the Disputed Domain Name intentionally to misdirect users looking for the Complainant's "www.bantrel.com" website. The Disputed Domain Name is being used to divert potential users away from the Complainant's website at "www.bantrel.com" to the Respondent's website associated with the Disputed Domain Name, which displays PPC links related to third party websites offering competing EPC and consulting services. Where a respondent is found to be diverting users to its website (and/or the websites of associated third parties) to generate traffic and sales commissions for its own commercial benefit, such conduct is recognized as constituting use in bad faith under the Policy.

## B. Respondent

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

## 6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the complainant must prove each of the following three elements in order to succeed in a UDRP proceeding:

- (i) the respondent's 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 respondent's domain name has been registered and is being used in bad faith.

### A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has rights to the Trademark.

A comparison between the Disputed Domain Name and the Trademark shows that the Disputed Domain Name replicates the Trademark to which a word element has been added as a suffix, *i.e.* "group".

As a matter of principle, the addition of terms (whether merely generic, descriptive, geographical, or otherwise) to a trademark in a domain name does not avoid a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8.

As a result, based on the rights of the Complainant on the Trademark and on the confusing similarity between the Trademark and the Disputed Domain Name, the Panel finds that the conditions of paragraph 4(a)(i) of the Policy are met.

### B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights to or legitimate interests in the Disputed Domain Name by demonstrating any of the following:

- (i) before any notice to it of the dispute, the Respondent's use of, or demonstrable preparations 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; 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 Disputed Domain Name, without intent for commercial gain, to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Although a complainant bears the ultimate burden of establishing all three elements of paragraph 4(a) of the Policy, previous UDRP panels have consistently ruled that paragraph 4(c) of the Policy shifts the burden of production to the respondent to come forward with evidence of a right or legitimate interest in the domain name, once the complainant has made a *prima facie* showing. See *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#).

In the Panel's opinion, the Complainant has made a *prima facie* case against the Respondent. The Respondent indeed registered the Disputed Domain Name that reflects the distinctive Trademark owned by the Complainant without its authorization. The way how the Disputed Domain Name has been used in order

to mislead potential job applicants looking for job opportunities by misusing the Complainant's Trademark and email addresses clearly establishes that the Respondent targeted the Complainant's Trademark and corporate activities.

The Panel notes that it is established that the use of the Disputed Domain Name and of corresponding email addresses in the context of fake job recruitment processes and to obtain confidential information from individuals cannot confer rights or legitimate interests on the Respondent. [WIPO Overview 3.0](#), section 2.13.1. This use of the Disputed Domain Name demonstrated by the Complainant is sufficient by itself for the Complainant to establish *prima facie*, that the Respondent has no rights or legitimate interests in the Disputed Domain Name, which has not been challenged by the Respondent (even assuming that it could be challenged) who has not participated in the proceedings.

On this basis, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and that paragraph 4(a)(ii) of the Policy is met.

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

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered evidence of registration and use of a domain name in bad faith:

(i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trademark or service mark) or to a competitor of the complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; or

(ii) circumstances indicating that 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) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) circumstances indicating that the respondent intentionally is using the domain name in an attempt 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 the respondent's website or location or of a product or service on its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances from which such bad faith may be found. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). The overriding objective of the Policy is to curb the abusive registration of domain names in circumstances where the registrant is seeking to profit from and exploit the trademark of another. See *Match.com, LP v. Bill Zag and NWLAWS.ORG*, WIPO Case No. [D2004-0230](#).

In this case, the Panel holds that the Respondent registered the Disputed Domain Name in bad faith because the Trademark distinctively identifies the Complainant's Trademark so that the choice of the Disputed Domain Name, which is clearly intended to replicate the Trademark and to refer to the Complainant's activities, cannot be reasonably explained otherwise than as a reference to the Trademark owned by the Complainant.

The Panel further notes that the use of the Disputed Domain Name in order to send deceptive emails to obtain sensitive or confidential personal information from individuals in the context of fake job recruitment processes constitutes bad faith use under the Policy. [WIPO Overview 3.0](#), section 3.1.4. Moreover, the content found at the website to which the Disputed Domain Name resolves reinforces the bad faith finding, considering that the pay-per-click links capitalize on the reputation of the Complainant's trademark by

resolving users to competing services, through which the Respondent presumably earns click-through revenue.

This is sufficient for the Panel to find that the Respondent registered and uses the Disputed Domain Name in bad faith pursuant to paragraph 4(b) of the Policy, so that the conditions of paragraph 4(a)(iii) of the Policy are met.

## **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, <bantrelgroup.com>, be transferred to the Complainant.

*/Jacques de Werra/*

**Jacques de Werra**

Sole Panelist

Date: September 27, 2022