

## **ADMINISTRATIVE PANEL DECISION**

CollegeNET, Inc. v. Nanci Nette  
Case No. D2023-1092

### **1. The Parties**

The Complainant is CollegeNET, Inc., United States of America (“U.S.”), represented by Stoel Rives, LLP, US.

The Respondent is Nanci Nette, U.S.

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

The disputed domain name <standoutprep.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 March 10, 2023. On March 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 14, 2023, 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 (Domains by Proxy LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 15, 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 March 17, 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 March 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 12, 2023.

The Center appointed Colin T. O’Brien as the sole panelist in this matter on April 17, 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**

Complainant provides college information and services designed to help students succeed in jumpstarting their career. Complainant owns and operates the domain name <standout.com>, where it hosts a website that helps students master their interviewing skills. Through the domain name <standout.com>, the Complainant offers interview-preparation packages to individuals and provides platform services to universities who wish to build a library of content for their student body. Also through the domain name <standout.com>, the Complainant provides services to employers, aiding them in identifying top candidates and sorting through applicants.

Complainant owns several U.S. trademark registrations for the STANDOUT mark; such as, U.S. Reg. Nos. 2,195,782 (registered on October 13, 1998) and 5,064,824 (registered since October 18, 2016).

The disputed domain name <standoutprep.com.com> was first registered on September 10, 2016 (the "Disputed Domain Name"). The Disputed Domain Name previously resolved to a pay-per-click ("PPC") website, but now no longer resolves to an active website.

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

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

The Disputed Domain Name consists of a confusingly similar modification to a trademark owned by Complainant. The Disputed Domain Name is confusingly similar to a domain owned and used by Complainant, <standout.com>. The Disputed Domain Name is nothing more than using Complainant's well-established, incontestable, and registered Mark STANDOUT with an added descriptor of the services provided under that Mark, namely "prep." Because of the confusing similarity between the Disputed Domain Name and Complainant's STANDOUT Mark, any use of the Domain is likely to cause Internet users to falsely believe that the Registrant, the Disputed Domain Name, or any Website hosted on the Disputed Domain Name, are related to, sponsored by, or affiliated with Complainant and/or its Mark.

Respondent is a privacy service and little to no information is available about the service's client. On information and belief, Complainant asserts that Respondent has no rights or legitimate interests in the Disputed Domain Name. Respondent had actual or constructive notice of Complainant's marks because the STANDOUT Mark has been listed on trademark registries since 1998, more than two decades ago and 18 years prior to the creation of the Disputed Domain Name.

Complainant has never licensed its Mark to Respondent or given Respondent permission to use its Mark. There is no evidence Respondent intended to use the Disputed Domain Name in connection with a *bona fide* offering of goods and services, that Respondent has been commonly known by the Disputed Domain Name, or that Respondent is using the domain name for a legitimate non-commercial or fair use.

The Disputed Domain hosts a sparse parked page comprising three ad links, for "Sat Prep Classes Nearby," "Gmat Preparation," and "Sat Prep Courses". Each link leads to a similar ad page with three questionable "tutoring" offerings apiece. In other words, the web content hosted on the Disputed Domain Name consists entirely of pay-per-click advertisements for matters closely related to Complainant's business.

Respondent is intentionally attempting to attract Internet users by creating a likelihood of confusion with the Complainant's STANDOUT Mark as to the source, sponsorship, affiliation or endorsement of the Respondent's website.

##### **B. Respondent**

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

The Complainant has demonstrated it owns registered trademark rights in the STANDOUT trademark. The addition of the term “prep” does not prevent a finding of confusing similarity. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions Third Edition (“[WIPO Overview 3.0](#)”).

Accordingly, the Disputed Domain Name is confusingly similar to a mark in which the Complainant has rights.

### B. Rights or Legitimate Interests

The Complainant has presented a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and has not been commonly known by the Disputed Domain Name. The fact that the Respondent obtained the Disputed Domain Name almost 20 years after the Complainant had begun using its well-known STANDOUT mark indicates that the Respondent sought to piggy-back on the STANDOUT mark for illegitimate reasons.

After a complainant has made a *prima facie* case, the burden of production shifts to the respondent to present evidence demonstrating rights or legitimate interests in the domain name. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

Here, the Respondent has provided no evidence of any rights or legitimate interests in the Disputed Domain Name; rather, the evidence suggests that it was either registered to make an undue profit based on the Complainant’s rights given the prior use of the Disputed Domain Name for PPC links related to the Complainant’s services (See, e.g., *Bottega Veneta SA v. ZhaoJiafei*, WIPO Case No. [D2013-1556](#)). Moreover, the current non-use of the Disputed Domain Name does not amount to a *bona fide* offering.

In the absence of any evidence rebutting the Complainant’s *prima facie* case indicating the Respondent’s lack of rights or legitimate interests in respect of the Disputed Domain Name, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

### C. Registered and Used in Bad Faith

The Disputed Domain Name was registered many years after Complainant first registered and used its STANDOUT trademark in the United States, where the Respondent is reportedly located. The evidence on the record provided by the Complainant with respect to the extent of use of its STANDOUT trademark, combined with the absence of any evidence provided by the Respondent to the contrary, is sufficient to satisfy the Panel that, at the time the Disputed Domain Name was registered, the Respondent knew of the Complainant’s STANDOUT trademark, and knew that it had no rights or legitimate interests in the Disputed Domain Name.

There is *prima facie* no reason for the Respondent to have registered the Disputed Domain Name containing the entirety of the STANDOUT trademark with the term “prep”. While the Disputed Domain Name does not resolve to an active website currently, there is ample evidence of bad faith use on the part of the Respondent. Further, UDRP panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. See section 3.3 of the [WIPO Overview 3.0](#). Particularly here, given the Respondent’s status as a serial cybersquatter, the Panel finds that the Respondent acted in bad faith with regards the registration and use of the Disputed Domain Name. See, e.g., *AXA SA v. Nanci Nette, Name Management Group*, WIPO Case No. [D2022-4885](#); *Montage Hotels & Resorts, LLC v. Nanci Nette*, WIPO Case No. [D2020-3145](#).

In the absence of any evidence or explanation from Respondent, the Panel finds that the only plausible basis for registering the Disputed Domain Name has been for illegitimate purposes. Accordingly, the Panel finds that Complainant has satisfied paragraph 4(a)(iii) of the Policy.

Further, the prior use of the Disputed Domain Name by the Respondent is clearly in bad faith. Paragraph 4(b)(iv) of the Policy states that evidence of bad faith may include a respondent's use of a disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to the respondent's 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 the respondent's website or location. The Complainant has submitted evidence that the Respondent has used the Disputed Domain Name in order to direct users to a parked website which includes links to websites which offer similar services as the Complainant. Given the notoriety of the Complainant's STANDOUT mark, the obvious inference is that the Respondent hoped to mislead customers of the Complainant to visit the website at the Disputed Domain Name trading on the Complainant's trademark and reputation in order to obtain pay-per-click revenue.

The Panel finds that the only plausible basis for registering and using the Disputed Domain Name has been for illegitimate and bad faith purposes.

## **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 <standoutprep.com> be transferred to the Complainant.

*/Colin T. O'Brien/*

**Colin T. O'Brien**

Sole Panelist

Date: May 1, 2023