

## **ADMINISTRATIVE PANEL DECISION**

PrideStaff, Inc. v. YangZhiChao

Case No. D2023-1952

### **1. The Parties**

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

The Respondent is YangZhiChao, China.

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

The disputed domain name <pridesstaff.com> is registered with 22net, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on May 1, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 4, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on May 5, 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 in English on May 10, 2023.

On May 5, 2023, the Center sent an email in English and Chinese to the Parties regarding the language of the proceeding. On May 9, 2023, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on May 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 6, 2023.

The Center appointed Matthew Kennedy as the sole panelist in this matter on June 12, 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 is a staffing firm founded in 1978. It has over 85 offices throughout the United States and is in the business of providing professional staffing services for both employers with professional staffing needs and individuals looking for job placement services. The Complainant owns United States trademark registration number 2116589 for PRIDESTAFF, registered on November 25, 1997, specifying services in class 35, with a claim of first use in commerce on March 1, 1995. That registration is current. The Complainant has also registered the domain name <pridestaff.com> that it uses in connection with a website where it provides information about itself and its services, and where employers can request staffing services and individuals can apply for posted positions.

The Respondent is an individual based in China. According to information provided by the Complainant, multiple UDRP panels have found in prior proceedings that the Respondent registered and was using other domain names in bad faith.

The disputed domain name was created on December 30, 2022. It resolves to a landing page displaying Pay-Per-Click ("PPC") links to sites related to staffing agencies.

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

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

The disputed domain name is confusingly similar to the PRIDESTAFF mark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is neither a franchisee nor otherwise affiliated with the Complainant. The Respondent is not otherwise doing business as "PrideStaff" or "PridesStaff." Rather, the Respondent is using the disputed domain name for illegitimate purposes.

The disputed domain name was registered and is being used in bad faith. The Respondent undoubtedly registered the disputed domain name to capitalize on the goodwill associated with the PRIDESTAFF mark by those seeking employment services. The disputed domain name itself implies that Internet browsers and potential consumers can go to the associated website to receive further information about the Complainant's branded services, *i.e.*, job and employment opportunities, which is false.

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

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

#### **6. Discussion and Findings**

##### **6.1 Preliminary Issue - Language of the Proceeding**

Paragraph 11(a) of the Rules provides that "unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding". The Registrar confirmed that the Registration Agreement for the disputed domain name is in Chinese.

The Complainant requests that the language of the proceeding be English. Its main arguments are that the disputed domain name contains two English words, the content of the landing page is in English, translation of the Complaint into Chinese would cause unwarranted delay and unnecessary expenses, and the Respondent also appears to be a serial cybersquatter.

Paragraphs 10(b) and (c) of the Rules require the Panel to ensure that the Parties are treated with equality, that each Party is given a fair opportunity to present its case and that the administrative proceeding take place with due expedition. Prior UDRP panels have decided that the choice of language of the proceeding should not create an undue burden for the parties. See, for example, *Solvay S.A. v. Hyun-Jun Shin*, WIPO Case No. [D2006-0593](#); and *Whirlpool Corporation, Whirlpool Properties, Inc. v. Hui'erpu (HK) electrical appliance co. Ltd.*, WIPO Case No. [D2008-0293](#).

In the present case, the Panel observes that the Complaint and the amended Complaint were filed in English. Despite the Center having sent emails regarding both the language of the proceeding and the notification of the Complaint in English and Chinese, the Respondent has not commented on the language of the proceeding nor expressed any interest in participating otherwise in this proceeding. Therefore, the Panel considers that requiring the Complainant to translate the Complaint would create an undue burden and delay.

Having considered all the circumstances above, the Panel determines under paragraph 11(a) of the Rules that the language of this proceeding is English. The Panel would have accepted a Response in Chinese, but none was filed.

## **6.2 Substantive Issues**

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements:

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

The burden of proof of each element is borne by the Complainant.

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

Based on the evidence submitted, the Panel finds that the Complainant has rights in the PRIDESTAFF mark.

The disputed domain name wholly incorporates the PRIDESTAFF mark but duplicates the “s”, which is an obvious typographical error in the spelling of the mark. This difference does not prevent a finding of confusing similarity with the mark. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.9.

The only additional element in the disputed domain name is the generic Top-Level Domain (“gTLD”) “.com”. As a standard requirement of domain name registration, this element may be disregarded in the comparison between a domain name and a mark. See [WIPO Overview 3.0](#), section 1.11.

Therefore, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The Complainant has satisfied the first element in paragraph 4(a) of the Policy.

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

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the Panel, shall demonstrate that the Respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- (i) before any notice to [the respondent] 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] (as an individual, business, or other organization) [has] been commonly known by the [disputed] domain name, even if [the respondent 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.

As regards the first and third circumstances set out above, the disputed domain name, which contains a misspelt version of the Complainant's trademark, resolves to a landing page displaying PPC links to sites for staffing agencies, which is the type of service provided by the Complainant. The PPC links operate for the commercial gain of the Respondent, if he is paid to direct traffic to the linked sites, or for the commercial gain of the operators of the linked sites, or both. The Complainant submits that the Respondent is neither a franchisee nor otherwise affiliated with the Complainant. In view of these circumstances, the Panel has no reason to find that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services, nor that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

As regards the second circumstance set out above, the Registrar verified that the Respondent's name is YangZhiChao, not the disputed domain name. Nothing on the record indicates that the Respondent has been commonly known by the disputed domain name.

In summary, the Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent failed to rebut that *prima facie* case because he did not respond to the Complainant's contentions.

Therefore, based on the record of this proceeding, the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

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

Paragraph 4(b) of the Policy provides that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The fourth circumstance is as follows:

- (iv) by using the [disputed] domain name, [the respondent has] intentionally attempted 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.

As regards registration, the disputed domain name was registered in 2022, years after the Complainant obtained its registration for the PRIDESTAFF mark. The disputed domain name contains a misspelt version of that mark. There appears to be no other reason to register the disputed domain name than to approximate the Complainant's domain name <pridestaff.com>. This gives rise to the inference that the Respondent was aware of the Complainant, its mark and its domain name at the time that he registered the disputed domain name. That inference is confirmed by the fact that, according to the information provided by the Complainant, the Respondent is a serial cybersquatter who has targeted many third party marks in other domain names.

As regards use, the disputed domain name resolves to a landing page displaying PPC links to sites for staffing agencies, which is the type of service provided by the Complainant. The disputed domain name evidently is intended to operate by attracting Internet users searching in a browser for the Complainant's

website but who accidentally mistype its domain name, including the PRIDESTAFF mark, and diverting them to the Respondent's landing page. This use is for commercial gain for the reasons set out in section 6.2B above. Given these circumstances, the Panel finds that this use of the disputed domain name intentionally attempts to attract, for commercial gain, Internet users to the Respondent's landing page by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website as set out in paragraph 4(b)(iv) of the Policy.

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant has satisfied the third element in paragraph 4(a) 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 name <pridesstaff.com> be transferred to the Complainant.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: June 23, 2023