

ADMINISTRATIVE PANEL DECISION

PrideStaff, Inc. v. Jason Johnston
Case No. D2023-3791

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 Jason Johnston, Australia.

2. The Domain Name and Registrar

The disputed domain name, <pridestaf.org> is registered with Network Solutions, LLC (the “Registrar”).

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 disputed domain name. On September 16, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 18, 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 25, 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 29, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 19, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 23, 2023.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on November 1, 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, PrideStaff, Inc., was founded in 1978 and is a staffing firm in the United States. The Complainant 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 is the owner of the United States Registration No. 2,116,589 for PRIDESTAFF, in Class 35, registered on November 25, 1997.

The Complainant also owns the domain name <pridestaff.com>, registered on July 16, 1996.

The disputed domain name <pridestaf.org> was registered on July 18, 2023, and resolves to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant argues that the trademark PRIDESTAFF appears in its entirety in the disputed domain name. The misspelling of the PRIDESTAFF mark, namely "pridestaf", does prevent the impact of this incorporation, as it provides the same commercial impression and is virtually the exact same mark.

Moreover, as the disputed domain name differs from the Complainant's trademark by just one letter, they must be considered a prototypical example of typo-squatting, which intentionally takes advantage of Internet users that inadvertently type an incorrect address when seeking to access the trademark owner's website. The addition of the general Top Level-Domain ("gTLD") ".org" suffix does not prevent a finding of confusing similarity.

The Complainant stresses that there is no evidence that the Respondent has made demonstrable preparations to use the disputed domain name for legitimate purposes, nor is there any evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods and or services.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant finds that the disputed domain name is used to take unfair advantage of the Complainant's rights for commercial gain, since Internet users and the Complainant's clients would inevitably associate the disputed domain name with the Complainant's prior trademark and domain name.

According to the Complainant, it has prior rights over the trademark PRIDESTAFF, and has not authorized the registration and use of the disputed domain name, nor the use of its trade name and trademarks by the Respondent. The Respondent is not affiliated to or authorized by the Complainant to use or register the disputed domain name.

The Complainant also argues that the Respondent was aware of the Complainant's rights and has registered the disputed domain name to target the Complainant's clientele, so the registration of the disputed domain name was conducted in bad faith. Furthermore, the Complainant asserts that the disputed domain name is being used in bad faith given that the disputed domain name is passively held and the Respondent is preventing the Complainant from reflecting the trademark PRIDESTAFF in the disputed domain name.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

As per paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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 used in bad faith.

Based on the evidence and arguments submitted, the Panel's findings are as follows:

A. Identical or Confusingly Similar

The disputed domain name incorporates the Complainant's trademark PRIDESTAFF in its entirety, being a misspelling of the mark PRIDESTAFF. The exclusion of the double "f" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark, since PRIDESTAFF remains recognizable in the disputed domain name. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

As numerous prior UDRP panels have recognized, the incorporation of a trademark in its entirety or a dominant feature of a trademark in a domain name is sufficient to establish that a domain name is identical or confusingly similar to the complainant's mark. See section 1.7 of the [WIPO Overview 3.0](#).

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, i.e., the disputed domain name is confusingly similar to the Complainant's trademark PRIDESTAFF.

B. Rights or Legitimate Interests

The Panel finds the Complainant has made out a *prima facie* case of this element, and the burden of production of evidence shifts to the Respondent. The Respondent has not submitted a response to the Complaint.

There is no evidence that the Respondent has any authorization to use the Complainant's trademark or to register domain names containing the trademark PRIDESTAFF.

There is no evidence that the Respondent is commonly known by the disputed domain name.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or that the Respondent has made 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.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(ii) of the Policy has been satisfied, i.e., the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The trademark PRIDESTAFF is registered by the Complainant and has been used for decades. The Complainant's trademark predates the registration of the disputed domain name.

The Complainant's trademark is well-known in its field of activity and has strong online visibility. The disputed domain name reproduces the Complainant's trademark PRIDESTAFF, and the Respondent has no rights or legitimate interests in the disputed domain name.

Moreover, the Respondent has chosen not to respond to the Complainant's allegations. According to the panel's decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#), "[t]he failure of the Respondent to respond to the Complaint further supports an inference of bad faith (*Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments, Inc.*, WIPO Case No. [D2002-0787](#))."

It has been established in prior UDRP decisions that where the respondent knew or should have known of a trademark prior to registering the disputed domain name, such conduct may be, in certain circumstances, sufficient evidence of bad faith registration and use. See *Weetabix Limited v. Mr. J. Clarke*, WIPO Case No. [D2001-0775](#).

In addition, it appears that the disputed domain name has not been used in connection with an active website. 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. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although 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, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). See section 3.3 of the [WIPO Overview 3.0](#).

In this case, the Panel notes the distinctiveness of the Complainant's trademark, the fact that the disputed domain name consists of a misspelled version of the Complainant's trademark and the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, i.e., the disputed domain name has been registered and used in bad faith.

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 <pridestaf.org> be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: November 11, 2023