

## **ADMINISTRATIVE PANEL DECISION**

Proctor.io Incorporated v. Carolina Rodrigues, Fundacion Comercio Electronico

Case No. D2024-0650

### **1. The Parties**

The Complainant is Proctor.io Incorporated, United States of America (“United States”), represented by Dorsey & Whitney, LLP, United States.

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

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

The disputed domain names <getpproctorio.com> and <gwtproctorio.com> are 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 12, 2024. On February 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On February 14, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 15, 2024, 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 February 15, 2024.

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 February 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 11, 2024.

The Center appointed Petter Rindforth as the sole panelist in this matter on March 19, 2024. 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**

Founded in 2013, the Complainant is a technology company located in Arizona in the United States. The Complainant offers state-of-the-art technology via the Complainant's fully automated proctoring software platform used to proctor the administration of tests and exams remotely.

The Complainant is the owner of the following trademarks:

United States national trademark registration No. 5722338 PROCTORIO (word), registered on April 9, 2019, for services in International Class 42;

European Union Trade Mark registration No. 018034721 PROCTORIO (word), registered on July 31, 2019, for services in International Class 42; and

United Kingdom national trademark registration No. UK00918034721 PROCTORIO (word), registered on July 31, 2019, for services in International Class 42.

The Complainant owns the domain name <getproctorio.com>, required for software download to use the Complainant's products.

The disputed domain names <getpproctorio.com> and <gwtproctorio.com> were created on November 21, 2023. They are both linked to websites with Pay-Per-Click ("PPC") links with names/descriptions related to the Complainant's services, such as "Test Preparation Guides," "Install Proctorio Chrome Extension," and "Proctorio Extension for Chrome."

The Respondent, with no business relationship with the Complainant, has not replied.

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

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

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that, given the Complainant's longstanding use and rights in the PROCTORIO trademark, and the fact the disputed domain names fully incorporate the Complainant's PROCTORIO trademark, or a confusingly similar variation thereof, the disputed domain names are likely to cause consumers to mistakenly believe that the Respondent is affiliated with, endorsed by, or sponsored by the Complainant, or that the Respondent's use of the disputed domain names are authorized by the Complainant.

The Complainant believes that the Respondent is a cyber-squatter who registered the disputed domain names in bad faith. The Respondent is currently offering the disputed domain names for sale for USD 1,499. This use of the disputed domain names that (1) fully encompass the Complainant's PROCTORIO trademark, and (2) that are confusingly similar to the Complainant's <proctorio.com> and <getproctorio.com> domain names, for commercial gain at an exorbitant price is evidence of bad faith use.

The Complainant requests that the Panel transfer the disputed domain names 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, the Complainant must prove each of the following:

- (i) that the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) that the disputed domain names have been registered and are being used in bad faith.

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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. In the present case, the addition of "getp" and "gwt", although misspelled, does not prevent a finding of confusing similarity between the disputed domain names and the Complainant's PROCTORIO trademark.

The Panel finds the first element of the Policy has been established.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

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. [WIPO Overview 3.0](#), section 2.9.

The Panel finds the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark. The PPC links on the websites connected to the disputed domain names may all falsely be seen as referring to the Complainant's services.

The Panel finds that the Complainant has established the third element 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 names <getpproctorio.com> and <gwtproctorio.com> be transferred to the Complainant.

*/Petter Rindforth/*

**Petter Rindforth**

Sole Panelist

Date: April 2, 2024