

Decision for dispute CAC-UDRP-104945

Case number CAC-UDRP-104945

Time of filing 2022-10-25 09:36:55

Domain names proman-Interim.com

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization PROMAN EXPANSION

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name bas jerry

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns several word trade mark registrations and combined word and device trade mark registrations consisting of or incorporating the name PROMAN, including the international trade mark registration No 1635272, first registered on 24 August 2021 in international classes 35 and 41; the EU trade mark registration No 018537424, first registered on 20 August 2021 in international classes 35 and 41; the EU trade mark registration No 018501035, first registered on 25 June 2021 in international classes 9 and 35 to 45; and the French national trade mark registration No 1617815, first registered on 24 September 1990 in international class 35. These trade mark registrations all predate the registration of the disputed domain name.

Furthermore, the Complainant owns a number of domain names consisting of or comprising the name PROMAN, including the domain names <proman-emploi.com>, registered on 13 August 2012, and the domain name <proman-interim.com>, registered on 8 July 2002, which connect to the Complainant's official websites.

FACTUAL BACKGROUND

The Complainant is a leading service provider in the field of temporary work and human resources. It is active in 16 countries and its group turnover amounted to 2.9 billion Euros in 2021.

The disputed domain name <proman-Interim.com> was registered on 12 October 2022. At the time of the Complaint, it resolved to a

parking page with commercial links. At the time of this decision, it now resolves to an error page.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

With regard to the first UDRP element, the Panel finds that the disputed domain name <proman-Interim.com> is confusingly similar to the Complainant's trade marks PROMAN. Indeed, the disputed domain name incorporates the Complainant's trade marks in their entirety but adds the hyphenated term "Interim", a mis-spelling of the generic term "interim" as contained in the Complainant's own domain name <proman-interim.com>, as a suffix to the Complainant's trade marks. The Panel follows in this respect the view established by numerous other decisions that a domain name which wholly incorporates a complainant's registered trade mark may be sufficient to establish confusing similarity for purposes of the UDRP (for example, WIPO Case No D2003-0888, Dr. Ing. h.c. F. Porsche AG -v- Vasily Terkin <porsche-autoparts.com>). The Panel further considers it to be well established that the addition of a generic term, such as the term "interim", even if mis-spelled as "Interim", does not allow a domain name to avoid confusing similarity with a trade mark (see, for example, WIPO Case No D2019-2294, Qantas Airways Limited -v- Quality Ads <qantaslink.com>). The addition of this generic term is not sufficient to alter the overall impression of the designation as being connected with the Complainant's trade marks and does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trade marks and associated domain names. To the contrary, the disputed domain rather adds to the likelihood of confusion because the term "interim" refers to the Complainant's services and implies that it is linked to the Complainant and its business. This is effectively a case of the Respondent using the disputed domain name in an attempt to typo-squat with regard of the Complainant's registered domain name <proman-interim.com>.

With regard to the second UDRP element, there is no evidence before the Panel to suggest that the Respondent has made any use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Neither is there any indication that the Respondent is making legitimate non-commercial or fair use of the disputed domain name. Indeed, the disputed domain name is not being used for any active website but resolved, at the time of the complaint, to a parking page with commercial links, which has in itself been regarded by other panels as supporting a finding that a respondent did not have a bona fide offering of goods or services or make legitimate non-commercial or fair use of the disputed domain names (see, for example, Forum Case No FA 970871, Vance Int'l, Inc. v. Abend (concluding that the operation of a pay-per-click website at a confusingly similar domain name does not represent a bona fide offering of goods or services or a legitimate non-commercial or fair use, regardless of whether or not the links resolve to competing or unrelated websites or if the respondent is itself commercially profiting from the click-through fees); and WIPO Case No D2007-1695, Mayflower Transit LLC v. Domains by Proxy Inc./Yariv Moshe ("Respondent's use of a domain name confusingly similar to Complainant's trademark for the purpose of offering sponsored links does not of itself qualify as a bona fide use.")). The disputed domain name now resolves to an error page and, likewise, a lack of

content at the disputed domain has been regarded by other panels as supporting a finding that a respondent lacked a bona fide offering of goods or services and did not make legitimate non-commercial or fair use of the disputed domain name (see, for example, Forum Case No FA 1773444, Ashley Furniture Industries, Inc v. Joannet Macket/JM Consultants). The Panel further finds that the Respondent is not affiliated with or related to the Complainant in any way and is neither licensed nor otherwise authorised to make any use of the Complainant's trade marks or to apply for or use the disputed domain name. Finally, the Whois information does not suggest that the Respondent is commonly known by the disputed domain name <proman-Interim.com>. Against this background, and absent any response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

With regard to the third UDRP element, it is reasonable to infer that the Respondent either knew, or should have known, that the disputed domain name would be identical with or confusingly similar to the Complainant's trade marks, and that it registered the disputed domain name in full knowledge of the Complainant's trade marks. Indeed, if the Respondent had carried out a Google search for the term "Proman-Interim", the search results would have yielded immediate results related to the Complainant, its websites, and its connected business and services. The addition of the term "Linterim" to the Complainant's trade marks is very unlikely to be coincidental, as it constitutes a misspelling of the term "interim", which refers to temporary employment and therefore to the Complainant's activities. The Panel concludes that it is difficult in those circumstances to believe that the Respondent was unaware of the Complainant's trade marks. Indeed, it is likely that the disputed domain would not have been registered if it were not for the Complainant's trade mark (see, for example, WIPO Case No D2004-0673 Ferrari Spa -v- American Entertainment Group Inc).

Furthermore, the website related to the disputed domain name resolved to a parking page with commercial links related to the Complainant's activities. Based on the decisions of other panels in similar cases, the Panel regards this as an attempt by the Respondent to attract Internet users for commercial gain to its own website based on the Complainant's trade marks, and as further evidence of bad faith (see, for example, WIPO Case No D2018-0497, StudioCanal v. Registration Private, Domains By Proxy, LLC / Sudjam Admin, Sudjam LLC ("In that circumstance, whether the commercial gain from misled Internet users is gained by the Respondent or by the Registrar (or by another third party), it remains that the Respondent controls and cannot (absent some special circumstance) disclaim responsibility for, the content appearing on the website to which the disputed domain name resolve [...] so the Panel presumes that the Respondent has allowed the disputed domain name to be used with the intent to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, affiliation, or endorsement of the Respondent's website to which the disputed domain name resolves. Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith.")).

Absent any response from the Respondent, or any other information indicating the contrary, the Panel therefore also accepts that the Respondent has registered and is using the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **proman-Interim.com**: Transferred

PANELLISTS

Name	Gregor Kleinknecht LLM MCI Arb
------	--------------------------------

DATE OF PANEL DECISION 2022-11-30

Publish the Decision
