Decision for dispute CAC-UDRP-107117

Case number	CAC-UDRP-107117
Time of filing	2024-12-02 10:28:04
Domain names	promannuk.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	PROMAN EXPANSION

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Mohamed Said

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

In this proceeding the Complainant relies on the following trademark registrations:

- The International Trademark Registration (IR) under the Madrid system No. 1635272 “PROMAN” (word and logo), registration date is August 24, 2021, and protected inter alia in Algeria, Monaco, the UK, Canada and the US;

- The European Union Trademark Registration No. 018537424 “PROMAN” (word and logo), registration date is January 28, 2022;

- The European Union Trademark Registration No. 018501035 “PROMAN” (word and logo), registration date October 13, 2021; and

- The French Trademark Registration No. 617815 “PROMAN Travail Temporaire” (word and logo), registration date is March 8, 1991.

The Complainant also refers to its portfolio of domain names <proman-interim.com>, registered since July 8, 2002, <proman-emploi.com> registered since August 13, 2012 and <proman-uk.com>.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

THE DISPUTED DOMAIN NAME IS IDENTICAL OR CONFUSINGLY SIMILAR TO A TRADEMARK OR SERVICE MARK IN WHICH THE COMPLAINANT HAS RIGHTS

The Complainant states that are a leading independent player in the field of temporary work and human resources. It claims to be the world's 13th largest recruitment agency and has a presence in 17 countries. The Complainant's Group turnover amounted to 4.1 billion euros in 2023.

The Complainant states that the disputed domain name is confusingly similar to its trademark and its associated domain names, as it includes the Complainant's trademark in its entirety. The Complainant asserts that the addition of the letter "N" and the term "UK" ("United Kingdom") is not sufficient to escape the finding that the domain name is confusingly similar to the trademark. It does not change the overall impression of the designation as being connected to the Complainant's trademark "PROMAN". It does not prevent the likelihood of confusion between the disputed domain name and the Complainant and its trademark.
Furthermore, the Complainant contends that the addition of the gTLD ".COM" does not change the overall impression of the designation as being connected to the Complainant's trademark.

THE RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAME

The Complainant asserts that the Respondent is not known as the disputed domain name.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name and he is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark, or apply for registration of the disputed domain name.

The Complainant highlights that he disputed domain name redirects to the Complainant's official website https://www.proman-uk.com/home. The Complainant's contends that the Respondent is not making a bona fide offering of goods or services by means of the disputed domain name, or a legitimate non-commercial or fair use of it.

THE DISPUTED DOMAIN NAME WAS REGISTERED AND BEING USED IN BAD FAITH

The Complainant's submissions on the bad faith element can be summarized as follows:

- The Respondent has registered the disputed domain name which is confusingly similar to Complainant's trademark, many years after Complainant had established a strong reputation and goodwill in its mark. Moreover, a "Google" search for the expression "PROMANNUK" displays several results, all of them being related to the Complainant and its offices. Given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark;
- The disputed domain name redirects to the Complainant's own website. The Complainant contends that the Respondent had knowledge of the Complainant's rights prior to the registration of the disputed domain name, which is a hallmark of bad faith;
- The disputed domain name has been registered by the Respondent in an effort to take advantage of the good reputation the Complainant had built up in its trademarks, with the sole aim to create a likelihood of confusion with the Complainant's trademarks and domain names;

- The fact that "MX" servers are configured, in the Complainant's view, indicates that the disputed domain name may be actively used for e-mail purposes and any e-mail emanating from the disputed domain name could not be used for any good faith purpose.

Therefore, the Complainant states the disputed domain name was registered and being used in bad faith.

PARTIES CONTENTIONS

The Complainant's contentions are summarized in the "Factual Background" section above.

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 trademark 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

A. Identical or confusingly similar

The Complainant provides evidence of its various trademark registrations for the term “PROMAN”.
The Panel agrees with the “WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition” (“WIPO Overview 3.0”): “where the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case” (see sec. 1.2.1).
Therefore, the Complainant proved it has trademark rights.
The test for confusing similarity under the UDRP is relatively straightforward and typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.
The disputed domain name incorporates the “PROMAN” mark of the Complainant. The addition of the letter “n” and a geographical element “UK” does not change overall perception of the disputed domain name as being confusingly similar to the Complainant’s mark.
As noted in WIPO Overview 3.0: “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” (see sec. 1.8).

The gTLD “.com” is to be disregarded under the confusing similarity test as it does nothing to eliminate confusion.
Therefore, the Panel finds that the first requirement of the Policy has been satisfied.

B. Rights or Legitimate Interests

The general rule is the following:

(i) a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests; and
(ii) once such prima facie case is made, the burden shifts to the respondent who has to demonstrate his rights or legitimate interests in respect of the domain name under paragraph 4 (c) of the Policy.

If the respondent fails to do so, the second element of the Policy is satisfied, see “Julian Barnes v. Old Barn Studios”, WIPO Case No. D2001-0121 and sec. 2.1 of WIPO Overview 3.0.

The disputed domain name was registered on October 17, 2024. On the date of this decision, it does not resolve to an active website.

However, the Complainant provided evidence that the disputed domain name previously redirected to the Complainant’s website.

The Respondent did not respond.
While failure to respond does not per se demonstrate that the Respondent does not have rights or legitimate interests, it allows the Panel to draw such inferences as it considers appropriate, see paragraph 14(b) of the Rules and **CAC Case No. 101284**: “A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable inferences may be drawn from the information provided by the complainant”.
The Complainant has made a prima facie case of Respondent’s lack of rights or legitimate interests.
The Respondent is not known by the disputed domain name and is identified as an individual with no apparent connection to the Complainant’s business, the disputed domain name or any name corresponding to the disputed domain name.

The Complainant has not granted any license or authorization to use its trademark registered many years prior to the registration of the disputed domain name to the Respondent and the Complainant is not doing any business with the Respondent.

The disputed domain name has not been actively used on the date of this decision and was previously used for redirecting to the

Complainant's website.
The Panel finds that in the circumstances of the present dispute the Respondent does not have rights or legitimate interests in respect of the disputed domain name.

Therefore, the Panel finds that the Complainant has satisfied the second element of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists non-exhaustive circumstances indicating registration and use in bad faith. These circumstances are non-exhaustive and other factors can also be considered in deciding about the bad faith element.
It is well established that bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark (see sec. 3.1 of WIPO Overview 3.0). Targeting with an intent to take unfair advantage of the complainant's mark is important in establishing bad faith under the UDRP.

As noted in "**UDRP Perspectives on Recent Jurisprudence**", updated on December 18, 2024, sec. 3.3: "Targeting can be established by either direct evidence (e.g. content of the website) or circumstantial evidence..."

The Panel finds that the disputed domain name was registered and is being used in bad faith based on the following:

1. The nature of the disputed domain name – confusingly similar to Complainant's trademark plus a geographical term (UK, a country where the Complainant has its own business) and the timing of the registration of the disputed domain name – October 17, 2024, many years after the Complainant obtained protection for its trademark and started its business under the same name. Besides, the disputed domain name contains an obvious misspelling of the Complainant's mark with the addition of "n" and highly resembles the Complainant's own domain name at <proman-uk.com>.
2. The Complainant provided evidence that the disputed domain name was previously used for redirecting to the Complainant's own website at https://proman-uk.com/home. This is direct evidence of Respondent's awareness of the Complainant and its trademarks and direct evidence of targeting (see also WIPO Overview 3.0, sec. 3.1.4).

3. The fact that MX servers are set up and that the disputed domain name may be used for e-mail purposes, in the circumstances of this dispute, is an additional indication of bad faith (see e.g. CAC Case No. 106298: "While, in the abstract, the creation of such record does not indicate any ill intent, in the circumstances of the present case where a domain name that is confusingly similar to the Complainant's distinctive trademark, and particularly also similar to its own legitimate domain name, has been created by the Respondent, this MX record does require some further explanation which the Respondent has not provided. As such, the Panel finds that the existence of an MX record for the disputed domain name further supports the conclusion that it has been registered and used in bad faith").

4. Based on the above, the Panel finds that Respondent's behavior falls within, at least, par. 4 b (iv) of UDRP and the Respondent by using the disputed domain name has intentionally attempted to attract, for commercial gain, Internet users to his web site, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement and that the Respondent targeted the Complainant with an attempt to take unfair advantage of the Complainant's mark.

The Panel holds that the third requirement of the Policy has been satisfied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **promannuk.com**: Transferred

PANELLISTS

Name	**Igor Motsnyi**

DATE OF PANEL DECISION 2025-01-04

Publish the Decision