

## **ADMINISTRATIVE PANEL DECISION**

Pixabay GmbH v. Contact Privacy Inc. Customer 0162706137 / Milen Radumilo, Milen Radumilo  
Case No. D2022-2992

### **1. The Parties**

The Complainant is Pixabay GmbH, Germany, represented by SafeNames Ltd., United Kingdom.

The Respondent is Contact Privacy Inc. Customer 0162706137, United States of America / Milen Radumilo, Milen Radumilo, Romania.

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

The disputed domain name <oixabay.com> is registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 12, 2022. On August 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 12, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on August 15, 2022, 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 August 17, 2022.

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 August 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 22, 2022.

The Center appointed Kathryn Lee as the sole panelist in this matter on September 29, 2022. 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 technology company, which runs an online platform at “pixabay.com” through which customers create and share copyright-free images, videos, and music. The service was launched in 2010 and is now available in 26 languages, offering more than 2.6 million images, videos, and music shared by its community members. The website had around 34 million visits per month between March and May of 2022. The Complainant owns the PIXABAY trademark in a number of jurisdictions worldwide including the following:

- Australian Registration Number 2004679 registered on April 22, 2019
- Indian Registration Number 4212079 registered on June 20, 2019
- Mexican Registration Number 2033884 registered on August 28, 2019
- European Union Registration Number 018041811 registered on September 20, 2019

The Respondent appears to be an individual with an address in Romania.

The disputed domain name was registered on September 30, 2021. The use of the disputed domain name has shifted between resolving to a website displaying pay-per-click (“PPC”) links and redirecting Internet users to a malicious pop-up virus scam site.

#### **5. Parties’ Contentions**

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

The Complainant contends that the disputed domain name is confusingly similar to the PIXABAY trademark in which the Complainant has rights. The Complainant asserts that the disputed domain name is identical to the Complainant’s PIXABAY trademark except that the letter “p” is replaced with an “o.” The Complainant contends that this is a case of typosquatting since these letters are adjacent on a QWERTY keyboard, and as such, the disputed domain name is confusingly similar to the Complainant’s trademark.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. The Complainant contends that the Respondent’s use of the disputed domain name to show PPC links does not constitute a *bona fide* offering of goods or services. The Complainant further contends that the disputed domain name at times redirect users to a website which is used to promote a virus scam, which also does not constitute legitimate interest on the part of the Respondent.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant contends that based on the fame of the PIXABAY trademark and its high visibility on the Internet, it is unlikely for the Respondent to have been unaware of the Complainant and its PIXABAY mark when registering the disputed domain name. The Complainant also contends that the disputed domain name comprises a clear typosquatting of the Complainant’s PIXABAY mark, and that typosquatting is acknowledged to constitute evidence of bad faith. Further, the Complainant asserts that the Respondent’s redirection of users to a website which promotes a virus scam constitutes bad faith intent to profit from illegal activity. Lastly, the Complainant points out that the Respondent is a serial cybersquatter who has been involved in more than 200 domain dispute cases.

## **B. Respondent**

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

## **6. Discussion and Findings**

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

The Complainant has demonstrated with supporting evidence that it has rights to the trademark PIXABAY. As for the disputed domain name, it is composed of the exact same letters as the Complainant's mark, except that the letter "p" is replaced by the letter "o" which happens to be an adjacent letter on the keyboard. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9, establishes that "[a] domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element". Accordingly, the disputed domain name is confusingly similar to the Complainant's trademark.

For the reasons mentioned above, the Panel finds that the first element has been established.

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

On the basis of the present record as set out above, the Panel finds that the Complainant has made the required allegations to support a *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain name. Once such a *prima facie* case has been established, the burden of production shifts to the Respondent to demonstrate its rights or legitimate interests in the disputed domain name, with the burden of proof always remaining with the Complainant. However, the Respondent in this case has chosen to file no Response to these assertions by the Complainant, and there is no evidence or allegation in the record that would warrant a finding in favor of the Respondent on this point.

Further, evidence shows that the disputed domain name redirected visitors to a malicious pop-up virus scam site. Use of a domain name for illegal activity can never confer rights or legitimate interests on the Respondent. See [WIPO Overview 3.0](#), section 2.13.1.

For the reasons provided above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element has been established.

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

The Panel finds that there is strong and clear evidence to find bad faith in this case.

Considering the fame of the Complainant and the visibility of the Complainant's services on the Internet, it is highly unlikely for the Respondent to have not known about the Complainant prior to registering the disputed domain name. In fact, typing "oixabay" in an Internet search engine will show the Complainant's "www.pixabay.com" website and information on the Complainant's service as top results. Therefore, it is more probable that the Respondent registered the disputed domain name with the intention of benefiting from the fame of the mark in some way. In fact, based on the submitted evidence, the disputed domain name resolved to a website with PPC links and also redirected visitors to a malicious pop-up virus scam site, which constitutes bad faith.

Furthermore, the Respondent has a history of registering domain names incorporating well-known marks and has been the respondent in more than 200 UDRP cases, almost all of which found bad faith on part of the Respondent. Among the domain names at issue in those cases are <Officedepot.com>, <morgnastanley.com>, <stateframbank.com>, and <gileadsciencess.com>, which also have intentional

misspellings of well-known marks and demonstrate a pattern of trademark-abusive domain name registrations.

For the reasons given above, the Panel finds that the third element has been established.

## **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, <oixabay.com> be transferred to the Complainant.

*/Kathryn Lee/*

**Kathryn Lee**

Sole Panelist

Date: October 27, 2022