

ADMINISTRATIVE PANEL DECISION

SIX Group AG v. ank, ank; aub, aub; kan sifu; ohn, ohn; oll, oll;
Domain Admin, FindYourDomain.com; wlc, wlc; and xds, xds
Case No. D2023-2477

1. The Parties

The Complainant is SIX Group AG, Switzerland, represented by Meisser & Partners AG, Switzerland.

The Respondents are ank, ank, Hong Kong, China; aub, aub, Hong Kong, China; kan sifu, Hong Kong, China; ohn, ohn, Hong Kong, China; oll, oll, Hong Kong, China; Domain Admin, FindYourDomain.com, United States of America; wlc, wlc, Hong Kong, China; and xds, xds, Hong Kong, China.

2. The Domain Names and Registrars

The disputed domain names <sixank.com>, <sixaub.com>, <sixohns.com>, <sixoll.com>, <sixwlc.com>, and <sixxds.com> are registered with PDR Ltd. d/b/a PublicDomainRegistry.com.

The disputed domain name <sixksf.com> is registered with Gname.com Pte. Ltd.

The disputed domain name <sixths.com> is registered with GoDaddy.com, LLC.

PDR Ltd. d/b/a PublicDomainRegistry.com, Gname.com Pte. Ltd., and GoDaddy.com, LLC are separately and collectively referred to below as “the Registrar”.

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on June 7, 2023. On the following day, the Center transmitted by email to the Registrar requests for registrar verification in connection with the disputed domain names. On June 9, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondents ank, ank; aub, aub; ohn, ohn; wlc, wlc; and xds, xds are listed as the registrants for the disputed domain names <sixank.com>, <sixaub.com>, <sixohns.com>, <sixwlc.com>, and <sixxds.com> and providing the contact details while disclosing registrant and contact information for the disputed domain name <sixoll.com> that differed from the named Respondent (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. On June 8, and June 12, 2023, the Registrar transmitted by email to the Center verification responses disclosing registrant and contact information for the disputed domain names <sixths.com> and <sixksf.com> that differed from the named Respondents (Registration Private, Domains By Proxy, LLC and

Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 16, 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 in English on June 22, 2023 and confirmed its position that the same owner registered all the disputed domain names.

On June 16, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On June 22, 2023, the Complainant submitted a request that English be the language of the proceeding. The Respondents did not comment on the language of the proceeding.

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 Respondents in English and Chinese of the Complaint, and the proceedings commenced on June 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 17, 2023. A Response was filed with the Center in English on July 14, 2023 with respect to the disputed domain name <sixths.com>. On the same day, the Complainant sent two email communications to the Center in which it purported to withdraw the Complaint with respect to the disputed domain name <sixths.com>, to amend it, or to proceed with respect to the other disputed domain names. On the same day, the Respondent opposed the termination of the proceeding with respect to the disputed domain name <sixths.com>.

The Center appointed Matthew Kennedy as the sole panelist in this matter on August 11, 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, based in Zürich, Switzerland, provides services in the areas of securities trading, financial information processing, and cashless payment transactions. The Complainant holds International trademark registration number 1010650 for a semi-figurative SIX mark in colors (the “SIX mark”), registered on March 3, 2009, designating multiple jurisdictions, and specifying goods and services in classes 9, 16, 35, 36, 38, 39, 41, 42, and 45. That trademark registration remains current. The Complainant also uses the domain name <six-group.com> in connection with a website where it provides information about itself and its products and services.

The Respondents are identified as an individual (“kan sifu”), a domain name broker (“Domain Admin, FindYourDomain.com”) and various three letter combinations (both as registrant names and organization names) that match part of each corresponding disputed domain name.

The disputed domain names were registered on the following dates in the following names:

Date of Registration	Disputed Domain Name	Disputed Domain Name Holder
April 15, 2004	<sixths.com>	Domain Admin, FindYourDomain.com
November 13, 2022	<sixksf.com>	kan sifu
November 27, 2022	<sixwlc.com>	wlc, wlc
December 3, 2022	<sixxds.com>	xds, xds

December 25, 2022	<sixank.com>	ank, ank
January 7, 2023	<sixaub.com>	aub, aub
January 14, 2023	<sixohns.com>	ohn, ohn
February 5, 2023	<sixoll.com>	oll, oll

The disputed domain name <sixths.com> resolves to a webpage on a domain name broker's website where it is advertised for sale for USD 19,999.

The other seven disputed domain names resolve to a website in English for a SIX cryptocurrency trading platform. The homepage prominently displays the Complainant's SIX semi-figurative mark. Under the heading "About SIX", the website presents SIX Swiss Exchange as part of the cash market division of the SIX Group, located in Zürich, the leading stock exchange in Switzerland.

On March 23, 2023, the Complainant sent a cease-and-desist letter to the Registrar regarding the disputed domain name <sixoll.com>. On March 31, 2023, the Complainant received an email from a customer seeking confirmation that the SIX trading platform associated with the disputed domain name <sixoll.com> was part of the Complainant's company.

5. Parties' Contentions

A. Complainant

The disputed domain names are confusingly similar to the Complainant's SIX mark. They all start with "six" and add some not related endings such as "oll", "ohns", "aub", "ank", "ths", "xds", and "wlc".

The disputed domain name registrants are the same party. The Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent is trying to impersonate the Complainant on his website. The Respondent offers the same services as the Complainant (*i.e.*, financial services). The Complainant surmises that this is a fraudulent website. The Respondent has not been commonly known by the disputed domain names. The Respondent was neither authorized nor licensed by the Complainant to use the Complainant's trade name or trademark and there is no business relationship between the Complainant and the Respondent.

The disputed domain names have been registered and are being used in bad faith. The Complainant's SIX mark is registered all around the world. The use of the registered logo, willfully creating a likelihood of confusion and suggesting being "SIX" on the website associated with the disputed domain names is clearly bad faith. The bad faith behavior is emphasized by the fact that the Respondent uses the Complainant's address. This is clear fraud and there is no other interpretation from the use of the website. The disputed domain names were registered primarily to disrupt the business of a competitor. The disputed domain names are used in order to attract, for commercial gain, Internet users to the Respondent's websites.

B. Respondents

The Respondent "Domain Admin, FindYourDomain.com" submits that the Complainant mistakenly and recklessly included it and its domain name <sixths.com> in this action. Specifically, the Complainant clearly intended to file this action in relation to the domain name <sixthes.com> (with an "e") and not in relation to <sixths.com> (without an "e").

The other Respondents did not reply to the Complainant's contentions.

6. Discussion and Findings

6.1 Procedural Issues

A. Requests for Partial Termination of the Proceeding and Addition of a Domain Name

The Complainant purports to withdraw the disputed domain name <sixths.com> from this proceeding due to a misspelling. It also proposes to amend that disputed domain name to <sixthes.com> or to proceed with the Complaint with respect to the other disputed domain names.

The Panel notes that the purported withdrawal of one disputed domain name and the request to continue as regards the other disputed domain names were made after the submission of the Response. The Complainant did not notify its consent to the proceeding begin dismissed with respect to the disputed domain name <sixths.com> with a finding against itself. The Parties have not notified a settlement of the dispute as regards any disputed domain name. In these circumstances, the Panel understands the Complainant's communications to be in effect a request for termination of the proceeding on other grounds with respect to the disputed domain name <sixths.com>, without a decision on the merits with respect to that disputed domain name.

Paragraph 17(b) of the Rules provides as follows: "If, before the Panel's decision is made, it becomes unnecessary or impossible to continue the administrative proceeding for any reason, the Panel shall terminate the administrative proceeding, unless a Party raises justifiable grounds for objection within a period of time to be determined by the Panel."

In the present case, the Respondent "Domain Admin, FindYourDomain.com" promptly objected to the termination of the proceeding with respect to the disputed domain name <sixths.com> prior to the Panel reaching a determination, in order to ensure that due consideration is given to its request for a finding of bad faith by the Complainant.

The Panel considers this ground for objection to be justifiable. The Respondent "Domain Admin, FindYourDomain.com" was put to the time and expense of engaging legal representation before the Complainant purported to withdraw the Complaint. It was thanks to the Response, which annexed a URL scan result and multiple screenshots, that the Complainant realized it had misspelt one disputed domain name and thereby joined another domain name's registrant in error. Even though there will be no opportunity to obtain findings on the merits of the Complaint regarding <sixths.com> following the Panel's ruling on consolidation (see section 6.1B below), the continuation of the proceeding with respect to this disputed domain name will give the Respondent an opportunity to obtain findings regarding its request for consideration under paragraph 15(e) of the Rules (see section 6.2D below). Therefore, the Panel declines to terminate this proceeding with respect to the disputed domain name <sixths.com>.

Further, the Complainant's request to amend a disputed domain name would entail the addition of a domain name to the proceeding. The Complainant did not make this request until long after notification of the amended Complaint. The Panel recalls that paragraph 10(c) of the Rules requires it to ensure that the proceeding take place with due expedition. The addition of the domain name <sixthes.com> at this late stage of the proceeding would cause undue delay. The omission of this domain name from the original and amended Complaint is not due to any effort by the Respondent to frustrate the proceeding. Accordingly, the Panel declines to add the domain name <sixthes.com> to this proceeding. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.12.2.

B. Consolidation: Multiple Respondents

The amended Complaint initiates disputes in relation to eight nominally different domain name registrants. The Complainant submits that the Respondents are all the same party. It alleges that all the disputed domain names resolve to the same IP address and websites that share the exact same content.

The Complainant requests consolidation of the disputes against the disputed domain name registrants pursuant to paragraph 10(e) of the Rules. The disputed domain name registrants did not comment on the Complainant's request for consolidation.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. However, the Panel does not consider that paragraph 3(c) of the Rules was intended to enable a single person or entity to put a complainant to the unnecessary time, expense, and effort of initiating multiple proceedings against technically different domain name registrants, particularly when each registration raises the same issues. In addressing the Complainant's request, the Panel will consider whether: (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#); and [WIPO Overview 3.0](#), section 4.11.2.

As regards common control, the Panel notes that seven disputed domain name registrants (*i.e.*, kan sifu; ank, ank; aub, aub; ohn, ohn; oll, oll; wlc, wlc; and xds, xds) share the same contact telephone number in Hong Kong, China, and their contact email user names follow a pattern in that each consists of its registrant name followed by a number except for the disputed domain name <sixksf.com> whose contact email user name consists of "ksf" (an abbreviation of the registrant name kan sifu) followed by a number. Their domain names were all registered within a relatively short period of time of three months and they resolve to the same IP address. In these circumstances, the Panel is persuaded that these seven disputed domain name registrants are under common control or indeed the same person.

However, the Panel does not find that the disputed domain name registrant "Domain Admin, FindYourDomain.com" is under common control with the other seven. This registrant is a broker; its name and contact details are entirely dissimilar from those of the other domain name registrants, and it is based in a different jurisdiction. Its disputed domain name was registered 18 years earlier than the others and, unlike all the others, it consists of an English word. It resolves to a different IP address and a different website, where the disputed domain name is put to a different use.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes regarding the seven disputed domain name registrants would be unfair or inequitable to any Party.

Accordingly, the Panel will decide the Complaint regarding the disputed domain names <sixank.com>, <sixaub.com>, <sixksf.com>, <sixohns.com>, <sixoll.com>, <sixwlc.com>, and <sixxds.com> (referred to below as the "disputed domain names"), registered in the names of kan sifu; ank, ank; aub, aub; ohn, ohn; oll, oll; wlc, wlc; and xds, xds (separately and collectively referred to below as the "Respondent"). On the other hand, the Panel declines to consolidate the dispute regarding the domain name <sixths.com> and will refer to it further only as regards the request for consideration under paragraph 15(e) of the Rules (in section 6.2D below).

C. Language of the Proceeding

Paragraph 11(a) of the Rules provides that "unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding". The Registrar confirmed that the Registration Agreements for the disputed domain names are in English except for the Registration Agreement for the disputed domain name <sixksf.com>, which is in Chinese.

The Complainant requests that the language of the proceeding be English. Its main argument is that the disputed domain names resolve to a website fully in English.

Paragraphs 10(b) and (c) of the Rules require the Panel to ensure that the Parties are treated with equality, that each Party is given a fair opportunity to present its case and that the administrative proceeding take

place with due expedition. Prior UDRP panels have decided that the choice of language of the proceeding should not create an undue burden for the parties. See, for example, *Solvay S.A. v. Hyun-Jun Shin*, WIPO Case No. [D2006-0593](#); and *Whirlpool Corporation, Whirlpool Properties, Inc. v. Hui'erpu (HK) electrical appliance co. Ltd.*, WIPO Case No. [D2008-0293](#).

The Panel observes that the Complaint and amended Complaint were filed in English. The website associated with the disputed domain names, including <sixksf.com>, is in English, which indicates that the Respondent is able to understand that language. Further, the Registration Agreements for the other disputed domain names are in English and the Panel has found that they and the registrant of <sixksf.com> are under common control or indeed the same person. Despite the Center having sent an email communication regarding the language of the proceeding and the Notification of the Complaint in English and Chinese, the Respondent has not requested that Chinese be the language of the proceeding or otherwise expressed any interest in participating in this proceeding. Therefore, the Panel considers that requiring the Complainant to translate the Complaint would create an undue burden and delay.

Having considered all the circumstances above, the Panel determines under paragraph 11(a) of the Rules that the language of this proceeding is English.

6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following elements with respect to each disputed domain name:

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

A. Identical or Confusingly Similar

Based on the evidence presented, the Panel finds that the Complainant has rights in the SIX mark.

The disputed domain names all wholly incorporate the textual element of the SIX mark as their respective first three letters. For technical reasons, they cannot include the figurative elements of that mark, hence these other elements can be disregarded in the comparison between the disputed domain names and the SIX mark. See [WIPO Overview 3.0](#), section 1.10. The disputed domain names add other letters, at least some of which are cryptocurrency symbols (such as “wlc” for wealthcoin), but these additions do not prevent a finding of confusing similarity because the SIX mark remains clearly recognizable in the disputed domain names. See [WIPO Overview 3.0](#), sections 1.7 and 1.8.

The only additional element in the disputed domain names is a generic Top-Level Domain (“gTLD”) suffix (“.com”) that, as a standard requirement of domain name registration, may be disregarded in the comparison between the disputed domain names and the SIX mark. See [WIPO Overview 3.0](#), section 1.11.

Therefore, the Panel finds that the disputed domain names are confusingly similar to a trademark in which the Complainant has rights. The Complainant has satisfied the first element in paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the Panel, shall demonstrate that the Respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- (i) before any notice to [the Respondent] of the dispute, [the Respondent's] 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; or
- (ii) [the Respondent] (as an individual, business, or other organization) [has] been commonly known by the [disputed] domain name, even if [the Respondent has] acquired no trademark or service mark rights; or
- (iii) [the Respondent is] making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

As regards the first and third circumstances set out above, the disputed domain names resolve to a website for a SIX cryptocurrency trading platform, offering services the same as, or related to, the services of the Complainant. The website prominently displays the Complainant's SIX semi-figurative mark and presents the Complainant's company under the heading "About SIX", all of which gives the impression that the website is operated by the Complainant. However, the Complainant submits that it has not authorized or licensed the Respondent to use its SIX trademark and that there is no business relationship between the Parties. The Panel finds that these circumstances indicate that the Respondent is not using the disputed domain names in connection with a *bona fide* offering of goods and services, not that it is making a legitimate noncommercial or fair use of the disputed domain names.

As regards the second circumstance set out above, the Respondent's name is listed in the Registrar's Whois database as "kan sifu"; "ank, ank"; "aub, aub"; "ohn, ohn"; "oll, oll"; "wlc, wlc"; and "xds, xds", none of which is a disputed domain name. Nothing indicates that the Respondent has been commonly known by any of the disputed domain names.

In summary, the Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent failed to rebut that *prima facie* case because it did not respond to the Complainant's contentions.

Therefore, based on the record of this proceeding, the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The fourth circumstance is as follows:

- (iv) by using the [disputed] domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location.

As regards registration, the disputed domain names were registered in 2022 and 2023, years after the Complainant obtained its trademark registration for SIX. The disputed domain names wholly incorporate the textual element of the SIX mark as their respective initial element. Although that textual element is an English dictionary word, the website to which the disputed domain names resolve prominently displays the Complainant's SIX mark, including its figurative elements. The website refers to the Complainant's company, its location, and its business. The Respondent offers no explanation for its choice of the disputed domain names. In view of these circumstances, the Panel finds that the Respondent had the Complainant and its SIX mark in mind at the time that it registered the disputed domain names.

The Respondent uses the disputed domain names, which wholly incorporate the Complainant's SIX mark, to resolve to a cryptocurrency trading platform website that is falsely presented as the Complainant's website.

This use is intentional and for commercial gain. The evidence includes an actual instance of consumer confusion. Given these circumstances, the Panel finds that the disputed domain names are intended to attract Internet users by creating a likelihood of confusion with the Complainant's SIX mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or of a service on that website within the terms of paragraph 4(b)(iv) of the Policy.

Therefore, the Panel finds that the disputed domain names have been registered and are being used in bad faith. The Complainant has satisfied the third element in paragraph 4(a) of the Policy.

D. Reverse Domain Name Hijacking

The Respondent "Domain Admin, FindYourDomain.com" submits that the Panel should make a finding of Reverse Domain Name Hijacking to discourage cavalier use of the Policy, which is intended to provide recourse against cybersquatters and not to create unnecessary legal disputes due to abject carelessness. It submits that the Complainant's counsel's misuse of the administrative proceeding, whether by error or otherwise, undermines the purpose of the Policy and amounts to bad faith.

The Complainant confirmed that there was indeed a misspelling of the domain name in question and purported to withdraw the amended Complaint as regards the disputed domain name <sixths.com> (see section 6.1A above).

Paragraph 15(e) of the Rules provides that if "after considering the submissions the panel finds that the complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or was brought primarily to harass the domain-name holder, the panel shall declare in its decision that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding". "Reverse Domain Name Hijacking" is defined in paragraph 1 of the Rules as "using the Policy in bad faith to attempt to deprive a registered domain-name holder of a domain name".

The Panel observes that the Complainant is represented by legal counsel. Although the Complainant intended to initiate a dispute regarding *inter alia* the domain name <sixthes.com>, it misspelt this domain name as <sixths.com> in every instance but one in the Complaint as well as in the amended Complaint. The Panel recalls that it is incumbent on every complainant to take care to state the correct domain name(s) against which it initiates a dispute because, as a technical matter, the Domain Name System operates via exact identification strings and, as a legal matter, the disputed domain name is the most basic element of a complaint under the Policy. The Complainant failed to take such care and certified - twice - that the information contained in its Complaint was to the best of its knowledge complete and accurate. Even if the Complainant's word processing software autocorrected the spelling of this domain name, the list of links to an IP address in paragraph 6 of the Complaint should have alerted it to the fact that one purportedly disputed domain name did not appear anywhere else in its submission. Further, the Notice of Change - Multiple Underlying Registrants sent by the Center contained numerous indications that the circumstances relating to the domain name <sixths.com> were dissimilar to the rest (discussed in section 6.1B above), which also should have drawn the Complainant's attention to this particular domain name prior to the filing of the amended Complaint. Despite this, the Complainant continued to seek consolidation of the dispute regarding <sixths.com> and put the holder of that domain name to unnecessary time and expense to respond to misconceived allegations.

The Rules do not give the Panel any power to make an order as to costs. While the Rules do provide for a declaration where a complaint was brought in bad faith, the Panel cannot conclude that the Complainant's error was tactical or otherwise intentional. Accordingly, the Panel does not find that the Complaint was brought in bad faith as regards the domain name <sixths.com>.

7. Decision

For the foregoing reasons:

(i) in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain names <sixank.com>, <sixaub.com>, <sixksf.com>, <sixohns.com>, <sixoll.com>, <sixwlc.com>, and <sixxds.com> be transferred to the Complainant; and

(ii) the Complaint is denied with respect to the disputed domain name <sixths.com>.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: August 25, 2023