

ADMINISTRATIVE PANEL DECISION

Sodexo Pass International v. Shi Lei

Case No. D2023-3380

1. The Parties

The Complainant is Sodexo Pass International, France, represented by Areopage, France.

The Respondent is Shi Lei, China.

2. The Domain Name and Registrar

The disputed domain name <pluxeebenefit.com> is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 7, 2023. On August 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 8, 2023, 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 (Redacted for Privacy, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 10, 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 on August 14, 2023.

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 16, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 6, 2023.

The Center appointed Beatrice Onica Jarka as the sole panelist in this matter on September 12, 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's Group is one of the largest companies in the world specialized in foodservices, facilities management, and benefit and reward services, with 422,000 employees serving daily 100 million consumers in 53 countries.

The Complainant is the Group's branch specialized in benefit and reward services developed in France since 1976.

The Complainant benefits and rewards services delivers over 250 products to 36 million consumers through 500,000 clients connected to 1.7 million affiliated merchants in 31 countries and it continues to grow.

In line with its strategy of growth, the benefit and reward services are now rendered under the name PLUXEE, such as their website at: "www.pluxeegroup.com".

The Complainant also owns numerous domain names corresponding to and/or containing the disputed domain name PLUXEE: <pluxeegroup.com>, <pluxee.net>, <pluxee.info>, <pluxee.biz>, <pluxee.org>, <pluxee.eu>, <pluxee.fr>, <pluxee.asia>, <pluxee.at>, <pluxee.be>, <pluxee.com.br>, <pluxee.ca>, <pluxee.cl>, <pluxee.co>, <pluxee.cz>, <pluxee.de>, <pluxee.fi>, <pluxee.id>, <pluxee.in>, <pluxee.io>, <pluxee.it>, <pluxee.ma>, <pluxee.mx>, <pluxee.nl>, <pluxee.pl>, <pluxee.pt>, <pluxee.ro>, <pluxee.ru>, <pluxee.se>, <pluxee.com.tr>, <pluxee.com.ua>, <pluxee.uk>, and <pluxee.us>.

The Complainant owns the following registered marks PLUXEE:

- PLUXEE, international trademark registration No. 1 706 936, registered on November 2, 2022, under priority of the French trademark registration No. 22 4 905 284 of October 14, 2022, in international classes 9, 16, 35, 36, 42, and 43, to designate the following countries: Austria, Bulgaria, Brazil, Benelux, Chile, China, Colombia, Czech Republic, Germany, Spain, United Kingdom, Indonesia, Israel, India, Italy, Morocco, Mexico, Philippines, Poland, Portugal, Romania, Tunisia, Türkiye, Ukraine, United States of America, and Viet Nam.

- PLUXEE, French trademark registration No. 4905284, filed on October 14, 2022, in international classes 9, 16, 35, 36, 42, and 43;

- PLUXEE, Peruvian trademark registration No. 35958, filed on November 4, 2022 under priority of the French trademark registration No. 22 4 905 284 of October 14, 2022, in international classes 9, 16, 35, 36, 42 and 43. The PLUXEE mark has been filed in many other countries of the world.

This disputed domain name was registered on November 5, 2022. The Respondent is reportedly an individual in China. At the time of filing the Complaint, it resolves to a webpage with pay-per-click ("PPC") links.

5. Parties' Contentions

A. Complainant

According to the Complainant,

- the disputed domain name is composed of the identical mark PLUXEE associated with the English word "benefit", which is internationally understood by consumers.
- the mark PLUXEE keeps its individuality and is clearly perceived by consumers as the predominant part of the disputed domain name.
- the addition of a generic or descriptive term to a mark will not alter the fact that the domain name at issue is confusingly similar to the mark in question.
- the addition of the descriptive word "benefit" in the domain name at issue is not sufficient to distinguish it from the Complainant's marks. On the contrary, the risk of confusion or association with the PLUXEE mark is stronger as the mark PLUXEE is precisely used by the Complainant for benefits and rewards services.
- due to the identical reproduction of the PLUXEE mark, the public will obviously believe that the disputed domain name comes from the Complainant or is linked to the Complainant in so far as it specifically provides services specialized in employee benefits.
- the Complainant has become aware that the Respondent has registered the disputed domain name and is using it as a parking page with PPC links.
- the Complainant has recently faced numerous attacks by phishing with domain names incorporating the SODEXO mark, or marks of its subsidiaries (Sogeres®, Comfort Keepers®, Inspirus®...), which makes it to believe that the concerned disputed domain name was certainly registered for phishing purposes. These are the reasons why the Complainant has decided to file the present Complainant.
- the Respondent has no rights nor legitimate interests in the disputed domain name as it has no rights on PLUXEE as corporate name, trade name, shop sign, mark or domain name that would be prior to the Complainant's rights on PLUXEE.
- the Respondent was not commonly known by the disputed domain name prior to the adoption and use by the Complainant of the mark PLUXEE.
- the Respondent does not have any affiliation, association, sponsorship or connection with the Complainant and it not been authorized, licensed or otherwise permitted by the Complainant or by any subsidiary or affiliated company to register the disputed domain name and to use it.
- the disputed domain name was registered and is being used in bad faith, as the sign PLUXEE is purely fanciful and nobody could legitimately choose this word or any variation thereof (in particular associated with the word "benefit"), unless seeking to create an association with the Complainant's activities and PLUXEE mark.
- the disputed domain name has been registered on November 5, 2023, therefore only a short time after the publication of the French mark PLUXEE, on which the international mark PLUXEE is based, and the registration of most of the domain names owned by the Complainant incorporating the word PLUXEE.
- the Respondent obviously knew the existence of the PLUXEE mark when it registered the disputed domain name, so that he or she perfectly knew that it had no rights or legitimate interests in the disputed domain name and that it cannot lawfully use it.

- previous UDRP decisions already recognize that actual knowledge of the Complainants' trademark in respect of the Respondent.
- the Respondent is using the disputed domain name by exploiting the confusion with the PLUXEE mark to attract Internet users and to incite them to click on third commercial links. This is then an intentional attempt to attract, for commercial gain, Internet users to the sites of third parties by creating a likelihood of confusion with the PLUXEE mark.
- the unauthorized use and registration of the disputed domain name by the Respondent to attract and redirect Internet users to thirds' websites are solely for the purpose of achieving commercial gain and then constitute bad faith registration and use.
- the Internet users who have a legitimate interest in the PLUXEE mark could have been then exposed to these parking services proposing advertising links to thirds' websites. This may not only be confusing for the consumers, but this can also create a dilution of the PLUXEE mark.
- the bad faith use may also result from the threat of an abusive use of the domain name at issue by the Respondent (for instance, for phishing) The unauthorized registration of the disputed domain name by the Respondent, likely in the aim of fraudulent uses, are for the purpose of commercial gain and then constitute bad faith registration and use.
- this is not the first time the Respondent is involved in a domain name dispute, as it appears that the same individual was namely involved with the present Complainant in the following cases: *Sodexo v. Privacy Protection, Privacy Protection / Shi Lei, Linpingshijidadao*, WIPO Case No. [D2022-1107](#), *Sodexo v. 石磊 (Lei Shi)*, WIPO Case No. [D2022-0745](#), in which it was ordered to transfer the disputed domain names to the Complainant.

B. Respondent

Although properly summoned, the Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant holds many trademarks registrations worldwide covering the term PLUXEE, as mentioned under Section 4 above.

The Panel considers that the disputed domain name is confusingly similar to the Complainant's trademarks PLUXEE. The disputed domain name adds the word "benefit", which does not prevent confusing similarity from the Complainant's marks. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Moreover, the addition of the gTLD ".com", may be disregarded under the first element, as they are viewed as a standard registration requirement. See section 1.11 of the [WIPO Overview 3.0](#).

The Panel finds that based on the above, the Complainant has succeeded to demonstrate the first element of the Policy in respect of the disputed domain name.

B. Rights or Legitimate Interests

To establish the second element of the Policy, the Complainant has to show that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes a *prima facie* showing, the burden of production shifts to the Respondent (see [WIPO Overview 3.0](#), section 2.1).

According to the Complainant, the circumstances of the case unrebutted by the Respondent indicate that:

- the Complainant has recently faced numerous attacks by phishing with domain names incorporating the SODEXO mark, or marks of its subsidiaries (Sogeres®, Comfort Keepers®, Inspirus®...), which makes it to believe that the concerned disputed domain name was certainly registered for phishing purposes.
- the Respondent has no rights nor legitimate interests in the disputed domain name as it has no rights on PLUXEE that would be prior to the Complainant's rights on PLUXEE.
- the Respondent was not commonly known by the disputed domain name prior to the adoption and use by the Complainant of the mark PLUXEE.
- the Respondent does not have any affiliation, association, sponsorship or connection with the Complainant and has not been authorized, licensed or otherwise permitted by the Complainant or by any subsidiary or affiliated company to register the disputed domain name and to use it.

In light of the worldwide registration of the Complainant's trademarks, the disputed domain name is inherently likely to mislead Internet users, and there is no evidence that the Respondent has been making legitimate, noncommercial, or fair use of the disputed domain name. Also, given the use of the disputed domain name for a website hosting commercial PPC links, such use cannot be said to confer rights or legitimate interests upon the Respondent, seeing as the Respondent uses it to capitalize on the reputation of the Complainant.

Accordingly, this Panel finds that the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and such showing has not been rebutted by the Respondent, as it did not reply to the Complainant's contentions.

Consequently, the Panel finds that the second element of paragraph 4(a) of the Policy is therefore established.

C. Registered and Used in Bad Faith

Under the Policy paragraph 4(b), bad faith may be evidenced by a number of circumstances including, but not limited to:

"(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location."

In this respect the following circumstances and evidence presented in the Complaint are sufficient for the Panel to consider them as demonstrative of the bad faith of the Respondent in registering and using the disputed domain name:

- the disputed domain name was registered and is being used in bad faith, as the trademark PLUXEE is purely fanciful and nobody could legitimately choose this word or any variation thereof (in particular associated with the word "benefit"), unless seeking to create an association with the Complainant's activities and PLUXEE mark.
- the disputed domain name has been registered on November 5, 2023, therefore shortly after the publication of the French mark PLUXEE, on which the international mark PLUXEE is based, and the registration of most of the domain names owned by the Complainant incorporating the trademark PLUXEE.
- the Respondent obviously knew the existence of the PLUXEE mark when it registered the disputed domain name, so that it perfectly knew that it had no rights or legitimate interests in the disputed domain name and that it cannot lawfully use it.
- the Respondent is using the disputed domain name by exploiting the confusion with the PLUXEE mark to attract Internet users and to incite them to click on third commercial links, which represents an intentional attempt to attract, for commercial gain, Internet users to the sites of third parties by creating a likelihood of confusion with the PLUXEE mark.
- the unauthorized use and registration of the disputed domain name by the Respondent to attract and redirect Internet users to third parties' websites are solely for the purpose of achieving commercial gain and then constitute bad faith registration and use.
- the Internet users have a legitimate interest in the PLUXEE mark could have been then exposed to these parking services proposing advertising links to third parties' websites. This may not only be confusing for the consumers, but this can also create a dilution of the PLUXEE mark.
- the bad faith use may also result from the threat of an abusive use of the domain name at issue by the Respondent (for instance, for phishing) making an unauthorized registration of the disputed domain name by the Respondent, likely in the aim of fraudulent uses for the purpose of commercial gain and then constitute bad faith registration and use.
- the Respondent has been previously involved in domain name disputes with the present Complainant, in which it was ordered to transfer the disputed domain names to the Complainant. See *Sodexo v. Privacy Protection*, *Privacy Protection / Shi Lei, Linpingshijidadao, supra.*, among others.
- The Respondent seems to have a record of being a cybersquatter. See, for example, *W.W. Grainger, Inc. v. shilei*, WIPO Case No. [D2023-3036](#), *Sbarro Franchise Co. LLC v. Shi Lei*, WIPO Case No. [D2023-2459](#), among others.

In the light of the above, the Panel holds that the disputed domain name was registered and used in bad faith and that the third element of paragraph 4(a) of the Policy is also 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, <pluxeebenefit.com> be transferred to the Complainant.

/Dr. Beatrice Onica Jarka/

Dr. Beatrice Onica Jarka

Sole Panelist

Date: September 25, 2023