

ADMINISTRATIVE PANEL DECISION

Pixabay GmbH v. Apolo Clypse
Case No. D2023-3396

1. The Parties

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

The Respondent is Apolo Clypse, Indonesia.

2. The Domain Name and Registrar

The disputed domain name <pixabay.store> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 8, 2023. On August 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 9, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 11, 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 15, 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 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 9, 2023.

The Center appointed Tobias Zuberbühler as the sole panelist in this matter on September 13, 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, founded in 2010, is an online platform through which its customers create and share copyright-free images, videos, and music. The Complainant operates through its main website at “www.pixabay.com”, available in 26 different languages, with an average of more than 37 million visits per month between February and April 2023. Google Play shows that the Complainant’s app has over a million downloads.

The Complainant owns trademark registrations in multiple jurisdictions, including the European Union trademark PIXABAY (Reg. No. 018041811, registered on September 20, 2019).

The disputed domain name was registered on January 16, 2023, and is currently being used to resolve to a website that advertises gambling services.

5. Parties’ Contentions

A. Complainant

The Complainant alleges that it has satisfied all elements of the Policy, paragraph 4(a).

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has shown that it has rights in the PIXABAY trademark, which is reproduced in its entirety in the disputed domain name.

As to the generic Top-Level Domain (“gTLD”) (in this case “.store”) in the disputed domain name, it has become a consensus view among UDRP panels that the applicable TLD in a domain name is a standard registration requirement and as such may be disregarded when assessing confusing similarity under the first element of the Policy. (see [WIPO Overview 3.0](#), section 1.11.1).

Therefore, the Panel concludes that the disputed domain name is identical to the Complainant’s PIXABAY trademark. Accordingly, the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

There are no indications before the Panel of any rights or legitimate interests of the Respondent in respect of the disputed domain name. The Respondent has not been commonly known by the disputed domain name and is not making a legitimate noncommercial or fair use of it. The disputed domain name is rather being used to redirect Internet users to a gambling website. Such use would not support a claim to rights or legitimate interests.

Based on the Complainant's credible contentions, the Panel finds that the Complainant, having made out a *prima facie* case which remains unrebutted by the Respondent, has fulfilled the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under the circumstances of this case, it can be inferred that the Respondent was aware of the Complainant's trademark when registering the disputed domain name.

By redirecting the disputed domain name to a gambling website, the Respondent has sought to capitalize on the Complainant's trademark and reputation (see *Claudie Pierlot v. Yinglong Ma*, WIPO Case No. [D2018-2466](#)).

Accordingly, the Complainant has also fulfilled paragraph 4(a)(iii) of the Policy.

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 <pixabay.store> be transferred to the Complainant.

/Tobias Zuberbühler/

Tobias Zuberbühler

Sole Panelist

Date: September 27, 2023