

## **ADMINISTRATIVE PANEL DECISION**

Pluxee International v. Alexis Rivadeneira, Unkunny spa  
Case No. D2023-4936

### **1. The Parties**

The Complainant is Pluxee International, France, represented by Areopage, France.

The Respondent is Alexis Rivadeneira, Unkunny spa, Chile.

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

The disputed domain name <pluxee-portaltraining.com> is registered with GoDaddy.com, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 27, 2023. On November 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 28, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 29, 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 December 4, 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 December 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 27, 2023.

The Center appointed Luca Barbero as the sole panelist in this matter on January 2, 2024. 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 branch of SODEXO group, specialized in foodservices, facilities management, and benefit and reward services, with 430,000 employees serving 80 million consumers in 45 countries on a daily basis.

The Complainant, founded in France in 1976, is specialized in benefit and reward services and is one of the world's leaders in the employee benefits market, ranging from meal, food, and gift to mobility benefits and rewards and recognition and engagement programs as well as public benefits. The Complainant's revenues amounted to EUR 865 million in 2022.

The Complainant delivers over 250 products to 36 million consumers through 500,000 clients connected to 1,7 million affiliated merchants in 31 countries.

The Complainant is the owner, amongst others, of the following trademark registrations for PLUXEE (Annexes 4 and 5 to the Complaint), formally registered in the name of SODEXO PASS INTERNATIONAL (the former name of PLUXEE INTERNATIONAL, as shown by the document attesting the change of corporate name submitted as Annex 7 to the Complaint):

- International trademark registration No. 1706936, for PLUXEE (word mark), registered on November 2, 2022, in classes 09, 16, 35, 36, 42, and 43;

- French trademark registration No. 4905284 for PLUXEE word mark, filed on October 14, 2022 and registered on March 10, 2023, in international classes 9, 16, 35, 36, 42, and 43.

The Complainant is also the owner, amongst others, of the domain name <pluxee-group.com>, registered on November 4, 2022, and used by the Complainant to promote its products and services under the trademark PLUXEE.

The disputed domain name <pluxee-portaltraining.com> was registered on November 17, 2023, and is pointed to a parking page with pay-per-click ("PPC") links to third-party websites.

#### **5. Parties' Contentions**

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

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the trademark PLUXEE in which the Complainant has rights as it reproduces the trademark in its entirety with the mere addition of the descriptive terms "portal" and "training" and the generic Top-Level Domain ("gTLD") ".com".

The Complainant submits that due to the identical reproduction of the PLUXEE mark, the public will believe that the disputed domain name is somewhat connected to the Complainant in so far as it specifically provides services specialized in employee benefits.

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant states that the Respondent has no rights as corporate name, trade name, shop sign, mark or domain name in the term PLUXEE that would be prior to the Complainant's rights in the mark PLUXEE, and that the Respondent was not commonly known by the disputed domain name prior to the adoption and use of the mark PLUXEE by the Complainant.

The Complainant also underlines that 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.

With reference to the circumstances evidencing bad faith, the Complainant indicates that PLUXEE is a purely fanciful term, and nobody would legitimately choose this word or any variation thereof unless seeking to create an association with the Complainant's activities and PLUXEE mark. Therefore, the Complainant submits that the Respondent had actual knowledge of the Complainant at the time of registering the disputed domain name.

The Complainant further submits that the Respondent registered and use the disputed domain name in bad faith to attract and redirect Internet users to the parking page with PPC links to third-party websites solely for the purpose of achieving commercial gain and potentially with the intention of fraudulent use. The Complainant also states that Internet users who have a legitimate interest in the PLUXEE mark could have been exposed to these parking services proposing advertising links to third-party websites and that this may not only be confusing for the consumers, but also create dilution of the PLUXEE mark.

## **B. Respondent**

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

## **6. Discussion and Findings**

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) that the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Indeed, the Complainant has provided evidence of ownership of valid trademark registrations for PLUXEE (Annexes 4 and 5 to the Complaint).

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Moreover, although the addition of other terms “portal” and “training”, may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy.

[WIPO Overview 3.0](#), section 1.8.

Therefore, based on the available record, the Panel finds the first element of the Policy has been established.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant’s trademark.

Moreover, there is no element from which the Panel could infer the Respondent’s rights and legitimate interests over the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

The Panel also finds that under the circumstances the use of the disputed domain name, incorporating the PLUXEE mark, merely for a PPC page which directs visitors to various third-party commercial websites, does not constitute a *bona fide* offering of goods or services or a legitimate, noncommercial use of the disputed domain name under the Policy.

Furthermore, the composition of the disputed domain name, with the addition of the “portal” and “training”, carries a risk of implied affiliation with the Complainant and thus, prevents a finding of rights or legitimate interests of the Respondent. [WIPO Overview 3.0](#), section 2.5.1.

Therefore, based on the available record, the Panel finds the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel finds that, in light of i) the prior registration and use of the Complainant's PLUXEE mark in connection with the Complainant's products and services, promoted online via the Complainant's website "www.pluxeegroup.com", ii) the fact that the term PLUXEE is purely fanciful and has no meaning in any language, and iii) the confusing similarity of the disputed domain name with the Complainant's trademark, the Respondent very likely registered the disputed domain name having the Complainant's trademark in mind.

The Panel also finds that the Complainant has proven that, by pointing the disputed domain name to a PPC website with links redirecting to third-party commercial websites, the Respondent intentionally attempted to attract users to its website for commercial gain, by creating a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of its website and the websites linked thereto, according to paragraph 4(b)(iv) of the Policy.

Therefore, based on the available record, the Panel finds that the Complainant has established the third element 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 <pluxee-portaltraining.com> be transferred to the Complainant.

*/Luca Barbero/*

**Luca Barbero**

Sole Panelist

Date: January 16, 2024