

## **ADMINISTRATIVE PANEL DECISION**

FlexLink AB v. Spenser Millburn  
Case No. D2024-0014

### **1. The Parties**

The Complainant is FlexLink AB, Sweden, represented by Zacco Sweden AB, Sweden.

The Respondent is Spenser Millburn, United States of America (“United States”).

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

The disputed domain name <flexliink.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 January 4, 2024. On January 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 4, 2024, 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 January 11, 2024, 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 amendment to the Complaint on January 12, 2024.

The Center verified that the Complaint together with the amendment to the 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 January 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 14, 2024. The Respondent sent email communications to the Center on January 15, 2024 and January 16, 2024.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on March 5, 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 Swedish multi-national company group founded in 1980. The Complainant is part of the Coesia Group, specialized in innovative industrial and packaging solutions. Coesia Group employs more than 8,000 people worldwide, and generated revenues for approximately EUR 2.015 million in 2022. The Complainant manufactures automated production and material flow solutions that provide its customers with automated conveyors systems, conveyor equipment, and aluminum and stainless-steel conveyors. FlexLink also provides solutions for automated productions flows. The Complainant sells its products in more than 60 countries, with sales amounting to SEK 3.2 million in 2022. The Complainant currently employs approximately 1,100 employees across four different continents.

The Complainant is the owner of the following trademark registrations:

- FLEXLINK (word mark), European Union registration No. 001941137, filed on November 6, 2000 and registered on December 20, 2002, for goods and services in classes 6, 7, 9, 17, 36, 37, 41, and 42;

- FLEXLINK (word mark), European Union registration No. 009571316, filed on December 3, 2010 and registered on May 16, 2011, for services in class 35;

- FLEXLINK (word mark), International registration No. 758763, of April 9, 2011, for goods and services in classes 6, 7, 9, 17, 36, 37, 41, and 42, designating various jurisdictions, including the United States;

- FLEXLINK (word mark), International registration No. 1091624, of June 1, 2011, for services in class 35, designating various jurisdictions, including the United States.

The Complainant is also the owner of the domain name <flexlink.com>, registered on August 29, 1997, which resolves to the Complainant's main website.

The disputed domain name was registered on November 4, 2023, and resolves to the Registrar parked page displaying pay-per-click ("PPC") links. On December 7, 2023, the Complainant sent a cease-and-desist letter to the Respondent asking to proceed with the immediate assignment of the disputed domain name to the Complainant. However, the Complainant did not receive any reply.

#### **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 its FLEXLINK trademark, as it consists of a mere misspelling of this trademark.

The Complainant further contends that the Respondent lacks rights or legitimate interests in the disputed domain name. The Complainant has no relationship with the Respondent; the Respondent is not a licensee of the Complainant and the Complainant did not authorize the Respondent to make use of its trademark in any manner whatsoever, including as part of the disputed domain name. The Complainant has found no information indicating that the Respondent is trading under a name corresponding to the disputed domain name. The Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services. The Respondent has intentionally chosen the disputed domain name to generate traffic and income through a website displaying PPC links. Some of these links promote services related to the Complainant's business. The use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering, where such links compete with, or capitalize on, the reputation and goodwill of the Complainant's mark or otherwise mislead Internet users. Moreover, the use of the disputed domain

name is not a legitimate noncommercial or fair use; no rights or legitimate interests derive from using a third party's trademark to divert Internet users to website displaying sponsored links.

Lastly, the Complainant maintains that the disputed domain name has been registered and is being used in bad faith. The Complainant is the owner of the trademark FLEXLINK in many jurisdictions worldwide and registered its trademark more than two decades before the registration of the disputed domain name. The disputed domain name is a typosquatting of the Complainant's mark. The mere registration of a domain name that is identical or confusingly similar to a famous or widely known trademark by an unaffiliated entity can, by itself, create a presumption of bad faith. A Google search for the term "flexlink" leads to the Complainant and to its website at "www.flexlink.com". Accordingly, the Complainant opines that the Respondent registered the disputed domain name being aware of the Complainant and of its FLEXLINK trademark and therefore in bad faith.

The disputed domain name resolves to a parked page displaying PPC links. The Complainant contends that the Respondent registered the disputed domain name in bad faith, to intentionally attempt to attract, for commercial gain, Internet users to its own website, by creating a likelihood of confusion with the Complainant's mark, as to the source, sponsorship, affiliation, or endorsement of the Respondent.

Lastly, on December 7, 2023, the Complainant sent a cease-and-desist letter to the Respondent and received no answer. Failure to reply to a cease-and-desist letter is evidence of bad faith.

## **B. Respondent**

Subject to informal email communications inquiring about the process, the Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

### **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.

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.

The Panel finds the mark is recognizable 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. The disputed domain name differs from the Complainant's mark FLEXLINK only by the repetition of the letter "i" in the word "link". UDRP panels usually consider a domain name consisting of a common, obvious, or intentional misspelling of a trademark to be confusingly similar to the relevant mark for purposes of the first element. The repetition of the letter "i" in the disputed domain name is certainly one of those misspellings that fall squarely under the typosquatting category.

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 the Respondent is not affiliated to the Complainant and that the Complainant never authorized the Respondent to make use of its FLEXLINK mark in any manner, including as part of the disputed domain name. Moreover, the Respondent does not appear to be commonly known by the disputed domain name. The disputed domain name consists of an obvious misspelling of the Complainant’s trademark. Accordingly, the Respondent is impersonating the Complainant through the disputed domain name. The Respondent is using the disputed domain name to access a parked page containing PPC links related to the Complainant’s activities. The Respondent is probably deriving an income from each click on the sponsored links. The use of a domain name almost identical to a third party’s trademark in connection with PPC links does not represent a bona fide offering, where such links capitalize on the reputation and goodwill of the Complainant’s mark or otherwise mislead Internet users, [WIPO Overview 3.0](#), section 2.9. In the instant case, the Panel notes that the Complainant has been operating for many years prior to the registration of the disputed domain name and is active in 60 countries across four continents. Among the various branches worldwide, the Complainant has a branch in the United States, which is where the Respondent is located. Some of the links displayed on the PPC page related to the disputed domain name make direct reference to the Complainant’s activity. All considered, the Panel finds that through the sponsored links appearing on the parked page of the disputed domain name, the Respondent is capitalizing on the reputation and goodwill of the Complainant’s mark and is misleading the Internet users looking for the Complainant, who are likely to believe that the disputed domain name belongs to the Complainant and not to an unrelated third party. Therefore, the use of the disputed domain name to access a parked page displaying PPC links cannot amount to a bona fide offering of goods or services and is not a legitimate noncommercial or fair use of the disputed domain name.

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 the Respondent incorporated the misspelling of the Complainant’s trademark FLEXLINK (adding a second letter “i”) in the disputed domain name. The Complainant’s mark appears to be uniquely associated with the Complainant. The Complainant operates worldwide, including in the United States, where the Respondent is apparently located. The disputed domain name resolves to a parked page containing PPC links, of which, some relate to the Complainant’s activity. Accordingly, the Panel concludes that the Respondent was aware of the Complainant’s mark when it registered the disputed domain name. The registration of a domain name incorporating a third party’s trademark without rights or legitimate interests is a registration in bad faith.

The disputed domain name resolves to a parking page containing PPC links, including links related to the Complainant's activity. The Respondent is probably deriving an income from each click on these links. Such use amounts to use in bad faith as it capitalizes on the Complainant's mark to attempt to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. Further evidence of bad faith lies in the lack of reply to the Complainant's cease and desist letter.

In light of the above, 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 <flexliink.com> be transferred to the Complainant.

*/Angelica Lodigiani/*

**Angelica Lodigiani**

Sole Panelist

Date: March 19, 2024.