

ADMINISTRATIVE PANEL DECISION

Pluxee International v. Xue Hu
Case No. D2024-1393

1. The Parties

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

The Respondent is Xue Hu, China.

2. The Domain Name and Registrar

The disputed domain name <pluxee.xyz> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 2, 2024. On April 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 3, 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 (“PrivacyGuardian.org LLC”) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 4, 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 amended Complaint on April 4, 2024.

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 April 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 29, 2024.

The Center appointed Stefan Bojovic as the sole panelist in this matter on May 8, 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 Pluxee International (formerly Sodexo Pass International) 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. These activities are developed in France in 1976 and, according to the documents provided with the Complaint, the Complainant is incorporated in 1989.

In 2022, the Complainant's benefit and rewards services section received revenues of EUR 865 million. 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 of a number of trademark registrations for PLUXEE (many of which are still registered in the old name of the Complainant - Sodexo Pass International¹ and which are, according to the Complainant, under the procedure for the change of name before the concerned trademark offices), including the following:

- International trademark registration number 1706936 for the PLUXEE word mark, registered on November 2, 2022, covering goods and services in classes 9, 16, 35, 36, 42, and 43 and designating various countries, including China, where Respondent is reportedly located; and
- French trademark registration number 4905284 for the PLUXEE word mark, registered on March 10, 2023, and covering goods and services in classes 9, 16, 35, 36, 42, and 43.

According to the Complaint, the Complainant is also a registrant of numerous domain names that contain PLUXEE trademark, such as: <pluxeegroup.com>, <pluxee.net>, <pluxee.info>, <pluxee.biz>, <pluxee.org>, etc.

The disputed domain name was registered on February 4, 2024, and at the time of the filing of the Complaint, has redirected to dan.com domain name marketplace webpage where it was offered for sale for USD 200. At the time of the Decision, the disputed domain name still redirects to dan.com webpage. However, instead of an indication of the price offered for the disputed domain name, it displays the following message "pluxee.xyz is not properly configured / The owner of the domain name uses the name servers of Dan.com but has not yet added the name to their portfolio".

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 composed of the Complainant's PLUXEE trademark and that due to the identical reproduction of that trademark, the public will obviously believe that the disputed domain name comes from the Complainant or is linked to the Complainant.

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

¹ The Complainant has provided sufficient evidence about the change of name from Sodexo Pass International to Pluxee International and recordal of change of name is already conducted for the key trademarks on which the Complaint is based. Therefore, the Panel considers all PLUXEE trademark registrations listed in the Complaint as the trademarks registered in the name of the Complainant.

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 and use the disputed domain name.

With reference to the circumstances evidencing bad faith, the Complainant states that the sign PLUXEE is purely fanciful and nobody could legitimately choose this word or any variation thereof, unless seeking to create an association with the Complainant's activities and PLUXEE trademark. The Complainant further deems that the Respondent obviously knew of the existence of its PLUXEE trademark and that there were no lawful grounds for registration and use of the disputed domain name. The purpose of the registration of the disputed domain name was very likely to sell it for profit as it was offered for sale to the general public. Finally, the Respondent seems to have been involved in other UDRP disputes where the concerned domain names were reproducing trademarks owned by third parties and which were resolved in favor of respective complainants, e.g., *LEGO Juris A/S v. Privacypdotlink Customer 4425657 / Xue Hu*, WIPO Case No. [D2021-1882](#).

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 stipulates 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.

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 entirety of the mark is reproduced within the disputed domain name without any additional terms. Accordingly, the disputed domain name is identical with the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

In addition, it is well established that ".xyz", as a generic Top-Level Domain, can be disregarded in the assessment of the confusing similarity between the disputed domain name and the Complainant's trademark mark. [WIPO Overview 3.0](#), section 1.11.1.

The Panel, therefore, finds that 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.

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.

In particular, the Panel notes that there appears to be no relationship between the Respondent and the Complainant and that the Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant’s PLUXEE trademark. There appears to be no element from which the Panel could infer the Respondent’s rights and legitimate interests in the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

The Panel also finds that the use of the disputed domain name for redirection to a domain name marketplace where the disputed domain name is offered for sale does not constitute a bona fide offering of goods or services or a legitimate, noncommercial use of the disputed domain name under the Policy.

Finally, it should be noted that the Respondent has already been engaged in several domain name disputes under the UDRP, all of which were decided in favor of complainants. See, for instance, *Bulgari S.p.A. v. xue hu*, WIPO Case No. [D2022-3650](#), and *LEGO Juris A/S v. Privacydotlink Customer 4425657 / Xue Hu*, WIPO Case No. [D2021-1882](#). Such a prior record of the Respondent indicates engagement in a pattern of registering domain names corresponding to trademarks held by third parties, which, as a rule, cannot constitute any rights or legitimate interest in the disputed domain name. [WIPO Overview 3.0](#), section 2.5.2.

Having in mind the above, 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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent could not reasonably pretend that it was not aware of the Complainant and its PLUXEE trademark, having in mind that “pluxee” is an invented word, which appears to be used exclusively by the Complainant in relation with its services. Furthermore, as referenced above, the Respondent’s history of domain name registrations that correspond to third party trademarks makes it more likely than not that the Respondent has registered the disputed domain name with the Complainant and its PLUXEE trademark in mind.

As previously indicated, the Respondent has been a party to multiple UDRP cases which were related to domain names registered by the Respondent and corresponding with trademarks of third-parties and all of which were decided in favor of the complainants. Paragraph 4(b)(ii) of the Policy stipulates that evidence of the registration and use of a domain name in bad faith shall be the registration of a 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 the registrant has engaged in a pattern of such conduct. Previous panels have held that a pattern of abuse can be found where the respondent registers, simultaneously or otherwise, multiple trademark-abusive domain names corresponding to the distinct marks of individual brand owners. [WIPO Overview 3.0](#), section 3.1.2

Due to the above, the Panel finds that the disputed domain name has been registered in bad faith.

Further, the disputed domain name has been offered for sale and appears to be otherwise passively held by the Respondent. Offering a domain name containing the distinctive trademark of a third party for sale for profit and/or passively holding it without any explanation has commonly been held by UDRP panels to be use in bad faith under the Policy.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness of the Complainant's trademark, the Respondent's failure to provide any evidence of actual or contemplated good faith use (or to provide any response whatsoever), and the concealment of the Respondent's identity through a privacy shield, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Therefore, The Panel finds that the disputed domain name has been both registered and is being used in bad faith, and consequently 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.xyz> be transferred to the Complainant.

/Stefan Bojovic/

Stefan Bojovic

Sole Panelist

Date: May 22, 2024