

## **ADMINISTRATIVE PANEL DECISION**

Pluxee International v. henrique bartolini dos santos  
Case No. D2024-1604

### **1. The Parties**

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

The Respondent is henrique bartolini dos santos, Brazil.

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

The disputed domain name <pluxee.fun> is registered with Hostinger Operations, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 17, 2024. On April 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 18, 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 (Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 19, 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 24, 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 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 16, 2024.

The Center appointed Ugur G. Yalçiner as the sole panelist in this matter on May 27, 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 the branch of the French company SODEXO Group, which is one of the largest companies specialized in food services, facilities management, and benefit and reward services. The Complainant specializes in employee benefits market, ranging from meal, food, and gift to mobility benefits and rewards and recognition and engagement programs as well as public benefits and it 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 trademark registrations in various jurisdictions, some of which are listed below:

- French trademark PLUXEE with registration No. 4905284, registered on October 14, 2022,
- International trademark PLUXEE with registration No.1706936, registered on November 2, 2022, designating amongst others, Brazil (where the Respondent resides).

The Complainant also owns the domain names containing the mark PLUXEE, namely: <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 disputed domain name was registered on April 12, 2024, and does not resolve to any active website.

#### 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. The Complaint includes the following contentions:

##### (i) Identical or Confusingly Similar

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

##### (ii) Rights or legitimate interests

The Complainant alleges that the Respondent has no rights nor legitimate interests in the disputed domain name as he 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 Complainant asserts that the Respondent was not commonly known by the disputed domain name prior to the adoption and use by the Complainant of the PLUXEE mark, 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.

(iii) Registration and Use in Bad Faith

The Complainant contends that trademark 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 its trademark PLUXEE, the Respondent obviously knew the existence of the PLUXEE mark when he registered the disputed domain name, so that the Respondent perfectly knew that he had no rights or legitimate interests in the disputed domain name and that he cannot lawfully use it.

**B. Respondent**

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

**6. Discussion and Findings**

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three elements are present:

- (i) 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; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

**A. Identical or Confusingly Similar**

The Complainant submits sufficient evidence for its registered trademarks in France and in several jurisdictions through its international registration. Accordingly, the Panel is satisfied that the Complainant is the owner of the trademark PLUXEE.

The disputed domain name entirely incorporates the Complainant's trademark PLUXEE, without any addition. As numerous prior UDRP panels have held, the fact that a domain name wholly incorporates a complainant's registered mark is sufficient to establish identity or confusing similarity. In accordance with section 1.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)) "the practice of disregarding the Top Level Domain ("TLD") in determining identity or confusing similarity is applied irrespective of the particular TLD (including with regard to "new gTLDs)", thus addition of gTLD ".fun" to the disputed domain name does not impact the identity or confusing similarity. Disregarding the gTLD ".fun", the Panel notes that the disputed domain name is identical to the Complainant's trademark.

In the light of the above, the Panel finds that the requirements in paragraph 4(a)(i) of the Policy are fulfilled.

**B. Rights or Legitimate Interests**

Once the Complainant makes out a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. See [WIPO Overview 3.0](#), section 2.1.

The Panel confirms that the Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has neither replied to the Complainant's contentions nor presented any evidence to support his rights or legitimate interests in the disputed domain name. As the Respondent has failed to rebut this case, the Panel concluded that the Complainant has established the second element of paragraph 4(a) of the Policy. See *Croatia Airlines d.d.*

*v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#); *Spenco Medical Corporation v. Transure Enterprise Ltd*, WIPO Case No. [D2009-1765](#); *Swarovski Aktiengesellschaft v. blue crystal*, WIPO Case No. [D2012-0630](#); and *Pomellato S.p.A v. Richard Tonetti*, WIPO Case No. [D2000-0493](#).

The Panel notes that the Respondent does not have any registered trademarks or trade names and no license or authorization of any other kind has been given by the Complainant to the Respondent to use its registered trademark. There is no evidence of the Respondent's demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services, neither. The Panel points out that holding the disputed domain name passively does not constitute rights or legitimate interests to the Respondent in the disputed domain name in the circumstances of this case. Moreover, the full inclusion of the Complainant's mark without any addition carries a high risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

As a result, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and the requirements of paragraph 4(a)(ii) of the Policy are therefore fulfilled by the Complainant.

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

The Panel is satisfied with the relevant evidence filed by the Complainant showing that it owns trademark rights for PLUXEE, which has been registered and used for prior to the registration of the disputed domain name and the Panel notes that the Complainant's trademark PLUXEE is an invented word without any ordinary meaning and being used around the world, especially in the employee benefits and engagement industry.

Considering the distinctiveness of the Complainant's prior trademark and use, a simple online search against the term "pluxee" would have revealed the Complainant and its trademark. The Panel is of the opinion that it is not possible for the Respondent to be unaware of the Complainant's trademark when the disputed domain name was registered. The Panel also believes that the gTLD ".fun" is frequently used for the websites related to entertainment activities that could be considered related to the services the Complainant provides for the employees, and registering and using the gTLD ".fun" along with the Complainant's trademark may create likelihood of confusion. In this regard, the Panel is satisfied that the defaulting Respondent likely has the intention of misleading public to believe that there was/is some affiliation or business relationship with the Complainant.

The Respondent has also made no active use of the disputed domain name, however the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding as stated [WIPO Overview 3.0](#), section 3.3. The Panel evaluates all the circumstances in this respect: (i) distinctiveness of trademark PLUXEE, (ii) the intention of the Respondent to create an implied affiliation with the Complainant's trademarks, (iii) lack of evidence proving the actual good-faith use, any rights or legitimate interests of the Respondent in the disputed domain name, (iv) impossibility of any plausible actual or contemplated use of the disputed domain name by the Respondent that would be legitimate.

Having considered all the facts in this case, the Panel finds that the Complainant has sustained its burden of proof in showing that the disputed domain name was registered and is being used in bad faith.

### **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.fun> be transferred to the Complainant.

*/Ugur G. Yalçiner/*

**Ugur G. Yalçiner**

Sole Panelist

Date: June 10, 2024