

ADMINISTRATIVE PANEL DECISION

Pluxee International v. LONGYA

Case No. D2024-2063

1. The Parties

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

The Respondent is LONGYA, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <pluxeeigroup.xyz> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 16, 2024. On May 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 19, 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 (Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 21, 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 May 22, 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 May 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 21, 2024.

The Center appointed Rodrigo Azevedo as the sole panelist in this matter on July 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 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 owns several PLUXEE trademarks, including the French Trademark No. 4905284, registered on March 10, 2023.

The Complainant also owns numerous domain names corresponding to and / or containing the mark PLUXEE, including <pluxeegroup.com>, registered on November 4, 2022.

The disputed domain name was registered by the Respondent on May 10, 2024.

The Panel accessed the disputed domain name on July 12, 2024, and found that it was not linked to any active website¹.

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 identical or confusingly similar to a trademark in which the Complainant has rights. The disputed domain name incorporates the PLUXEE mark in its entirety with the addition of the element "group", which clearly refers to an affiliation with the Complainant and its PLUXEE trademark. The addition of the word "group" in the disputed domain name is inoperative to distinguish it from the Complainant's marks as in the disputed domain name. The PLUXEE mark is dominant and keeps its individuality and attractive character. The public will obviously believe that the disputed domain name comes from the Complainant or is linked to the Complainant. Although the disputed domain name is currently inactive, the Complainant recently faced numerous attacks by phishing with domain names incorporating the PLUXEE's marks and domain names with the extension ".xyz" which are often the most affected by these attacks. Finally, the Complainant strongly fears being a victim of another phishing incident.

- The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is unknown to the Complainant. The Respondent 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 Respondent was not commonly known by the concerned domain name prior to the adoption and use by the Complainant of the PLUXEE mark. Moreover, 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.

- The disputed domain name was registered and is being used in bad faith. The sign PLUXEE is purely fanciful, and nobody could legitimately choose this word or any variation thereof, especially in association with the element "group", unless seeking to create an association with the Complainant's activities and mark PLUXEE. The Respondent obviously knew the existence of the PLUXEE mark when he registered the disputed domain name, so that he perfectly knew that he had no rights or legitimate interests in the disputed domain name and that he cannot lawfully use it. Previous UDRP decisions already recognize that actual knowledge of the Complainant's trademarks and activities at the time of the registration of the disputed

¹ Further to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.8, "[n]oting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. This may include visiting the website linked to the disputed domain name in order to obtain more information about the respondent or its use of the domain name...".

domain name may be considered an inference of bad faith. The Respondent not only knows the PLUXEE mark but wants to benefit of its reputation. The Respondent registered the disputed domain name for the purpose of creating confusion with Complainant's mark to divert or mislead third parties for Respondent's illegitimate profit. Even if the disputed domain name, which has been recently created, does not presently have any active content, a passive holding of a domain name does not prevent a finding of bad faith, taking into consideration: the strong reputation and well-known character of the Complainant's mark; the lack of evidence provided by the Respondent of any good faith use with regard to the disputed domain name; and the identity of the disputed domain name with Complainant's name and mark intended to divert or mislead potential web users from the Complainant's website they are actually trying to visit. Moreover, bad faith use may also result from the threat of an abusive use of the disputed domain name by the Respondent. The unauthorized registration of the disputed domain name by the Respondent and its passive holding, likely in the aim of fraudulent uses, are for the purpose of commercial gain and as such constitute bad faith registration and use.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain name, a complainant shall prove the following three elements:

- (i) the disputed domain name 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

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 3.0](#), section 1.7.

Annexes 5 and 6 to the Complaint show registrations of PLUXEE trademarks obtained by the Complainant, since 2022. 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.

The trademark PLUXEE is wholly encompassed within the disputed domain name, together with the suffix "group", as well as with the generic Top-Level Domain ("gTLD") ".xyz".

Although the addition of other terms (here, "group") may bear on assessment of the second and third elements, the Panel finds that it 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.

It is also well established that the addition of a gTLD, such as ".xyz", is typically disregarded when determining whether a domain name is confusingly similar to a complainant's trademark as such is viewed as a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1.

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 finds no indication that the Respondent is commonly known by the disputed domain name and the Complainant has asserted that the Respondent is not an authorized representative, nor has not obtained any permission for such use of the PLUXEE trademark.

Therefore, the Panel finds that the nature of the disputed domain name carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

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.

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.

The disputed domain name includes the distinctive trademark PLUXEE, which has no dictionary meaning.

Also, the addition of the term “group” may even enhance the perception that the disputed domain name is related or endorsed by the Complainant’s “group” of enterprises, as it may suggest that it is an official PLUXEE website, operated by the Complainant or by its controllers.

Furthermore, when the disputed domain name was registered in 2024, the PLUXEE trademark was already connected with the Complainant’s business, especially in France.

Therefore, the Panel concludes that it is not feasible that the Respondent was not aware of the Complainant’s trademark and that the registration of the disputed domain name was a mere coincidence.

So that the Panel also concludes that the Respondent has intentionally attempted to attract, through the registration and use of the disputed domain name, the Complainant’s customers, by creating a likelihood of confusion with the Complainant’s mark.

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. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant’s trademark and the composition of the disputed domain name, 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.

The non-collaborative posture of the Respondent, i.e., (a) not presently using the disputed domain name, (b) not indicating any intention to use it, and (c) not at least submitting a Response to this procedure or providing justifications for the use of a famous third-party trademark, certainly cannot be used in benefit of the Respondent in this Panel's opinion. Such circumstances, together with (d) the lack of any plausible interpretation for the adoption of the term "pluxeegroup" by the Respondent, are enough in this Panel's view to characterize bad faith registration and use in the present case.

Therefore, having reviewed the record, the Panel finds the registration and use of the disputed domain name constitutes bad faith under 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 <pluxeegroup.xyz> be transferred to the Complainant.

/Rodrigo Azevedo/

Rodrigo Azevedo

Sole Panelist

Date: July 19, 2024