

ADMINISTRATIVE PANEL DECISION

Parsons Xtreme Golf, LLC v. Luo xiao
Case No. D2024-2101

1. The Parties

The Complainant is Parsons Xtreme Golf, LLC, United States of America (“United States”), represented by Loeb & Loeb, LLP, United States.

The Respondent is Luo xiao, China.

2. The Domain Name and Registrar

The disputed domain name <golpxg.com> is registered with CNOBIN Information Technology Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 20, 2024. On May 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 22, 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 (Unknown Registrant) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 23, 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 23, 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 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 17, 2024.

The Center appointed Theda König Horowicz 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 was founded in September 2014. It is based in the United States and is a manufacturer and seller of golf-related products, namely equipment (including golf clubs), apparel and accessories. Its products are advertised through a variety of media, including television, magazines, social media, and the Internet, as well as through sponsorship of professional golfers and golf tournaments.

The Complainant trades as PXG and uses Parsons Xtreme Golf as part of its trading style. It has many registered trade marks for both PXG, as well as for PARSONS XTREME GOLF, including the following;

- United States trade mark, number 4,779,101 for PXG (standard characters), registered on July 21, 2015, in Class 28;
- United States trade mark, number 4,966,446 for PXG (stylized), registered on May 24, 2016 in Class 25; and
- United States trade mark, number 5,443,575 for PARSONS XTREME GOLF (standard characters), registered on April 10, 2018, in Class 25.

The Complainant also owns the domain name <pxg.com> which was registered on April 3, 2000 and, since 2015, has resolved to a website offering for sale a variety of the Complainant's goods and services.

The disputed domain name was registered on August 10, 2023. At the time of the filing of the Complaint, the disputed domain name resolved to a website selling golf equipment which mimics the Complainant's website, notably by using the registered and highly stylized PXG logo.

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 PXG trade mark, the only difference being the addition of the word "golf". A domain name which incorporates a complainant's trade mark in its entirety and couples it with a generic or descriptive term will not prevent a likelihood of confusion. The word "golf" is simply generic or descriptive of the goods that the Complainant offers and does not prevent a confusion.

The Complainant asserts also that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not commonly known by the name "Pxxg" and has not made any legitimate noncommercial or fair use of the disputed domain name. The Respondent is not affiliated with the Complainant and the Complainant has never assigned, sold, licensed, or transferred any rights in any of its PXG marks to the Respondent, nor has it ever consented to the Respondent's use of them. Moreover, the Respondent's use of the disputed domain name to sell golf equipment and which mimics the Complainant's website to a degree where consumers might be wrongfully believing that they are buying authentic goods from the Complainant. Such use of the disputed domain name does not constitute a bona fide offering of goods.

Lastly, the Complainant says that the disputed domain name was registered and is being used in bad faith. There is a presumption of bad faith when a respondent should have been aware of a complainant's trade marks, whether actively or constructively. The Respondent had both actual and constructive knowledge of the Complainant's PXG marks as at the time of registration of the disputed domain name. In particular, the Respondent's website refers to itself as PXG and offers for sale the same ranges of products as the Complainant. It also uses the Complainant's trade mark, in particular its stylized PXG logo. Accordingly, the Respondent must have been aware of the Complainant and its mark. The registration by the Respondent of the disputed domain name in the knowledge of the Complainant's rights, demonstrates its bad faith. Further, the Complainant notes that the Respondent does not have trade mark rights over the PXG marks.

B. Respondent

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 trade mark 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 the trade mark PXG for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the PXG mark is reproduced within the disputed domain name. The addition of the word "golf" does not prevent a finding of confusing similarity between the PXG mark and the disputed domain name for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 case file shows that the Respondent has resolved the disputed domain name to a website with a layout that is extremely close to the website of the Complainant, which uses the PXG stylized logo and which sells golf equipment bearing the Complainant's trade mark without any authorization. Such impersonation/passing off can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 notes that the Respondent obviously knew about the Complainant's trade mark rights over PXG since it uses the said mark not only in the disputed domain name, but also on the website and on golf equipment, by using the same stylized PXG logo, bearing in mind that the Complainant established its reputation in this specific field.

The disputed domain name resolves to a website selling golf equipment which mimics the Complainant's website, notably by using the registered and highly stylized PXG logo. The Panel finds that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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, which constitutes bad faith. Paragraph 4(b)(iv) of the Policy.

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.

Panels have in particular held that the use of a domain name for impersonation/passing off as in the present case constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <golfoxg.com> be transferred to the Complainant.

/Theda König Horowicz/

Theda König Horowicz

Sole Panelist

Date: July 22, 2024