

## **ADMINISTRATIVE PANEL DECISION**

Pluxee International v. Faith Luios  
Case No. D2024-3242

### **1. The Parties**

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

The Respondent is Faith Luios, the United States of America.

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

The disputed domain name <plvxeeigroup.com> is registered with Squarespace Domains LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 7, 2024. On August 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 8, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 9, 2024, 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 August 16, 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 August 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 11, 2024. On September 6, 2024, the Complainant submitted an unsolicited supplemental filing to the Center.

The Center appointed Taras Kyslyy as the sole panelist in this matter on September 18, 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 French company spun-off from Sodexo Group in February 2024. The Sodexo Group started its business in 1976 and is specialized in foodservices, facilities management and earlier in benefit and reward services, with 430 000 employees serving daily 80 million consumers in 45 countries. In 2023, Sodexo business relating to employee benefits and engagement solutions which was operated by Sodexo Pass International changed its name into Pluxee.

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 widely established and among others in the United States of America where the Respondent is located.

The Complainant owns international registration No. 1706936 for its PLUXEE trademark, registered on November 2, 2022, and inter alia covering the United States of America.

The Complainant also owns numerous domain names corresponding to and / or containing the sign PLUXEE, namely: <pluxeegroup.com>, <pluxee.net>, <pluxee.info>, and many more.

The disputed domain name was registered on August 6, 2024, and resolved to a webpage stating “<plvxeeegroup.com> We're under construction. Please check back for an update soon”.

#### **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 the Complainant's trademark. The disputed domain name is composed of the almost identical sign PLUXEE, misspelled, and associated with the English word “group”, which is internationally understood by consumers. The spelling mistake in the sign PLUXEE consists in replacing the letter “u” by the letter “v”. This is inoperative to distinguish the disputed domain name at issue from the Complainant's mark. It does not significantly affect the appearance of the disputed domain name which is confusingly similar to the Complainant's mark, especially as the letters “u” and “v” are visually very close. The disputed domain name corresponds to typosquatting practice intended to create confusing similarity between the Complainant's mark and the disputed domain name. The addition of the generic word “group” clearly refers to an affiliation with the Complainant. The expression “pluxee group” therefore refers to the Complainant's official website. The addition of the word “group” in the disputed domain name is inoperative to distinguish it from the Complainant's mark. Due to the almost identical reproduction of the Complainant's mark, the public will believe that the disputed domain name comes from the Complainant or is linked to the Complainant. The confusion is the more likely that the Complainant is the owner of the domain name <pluxeegroup.com> and uses it to connect to its official website.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name. 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 trademark rights. The Respondent was not commonly known by the disputed

concerned domain name prior to the adoption and use by the Complainant of the corporate name, business name and the Complainant's 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.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant's mark 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 mark. The Respondent knew about the existence of the Complainant's 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. The Respondent not only knows about the Complainant's mark but wants to benefit of its reputation. The Respondent registered the disputed domain name with actual knowledge of Complainant's rights in its mark very likely for the purpose of creating confusion with the Complainant's mark to divert or mislead third parties for the Respondent's illegitimate profit. Even if the disputed domain name, which has been recently created, does not presently have any active content, its passive holding does not prevent a finding of bad faith. In this case may apply the following factors proving the bad faith: 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; the (almost) 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, the 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 then constitute bad faith registration and use.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Preliminary Issues: Supplemental Filing**

The Panel will first address the issue of the unsolicited supplemental submission made by the Complainant to the Center.

Paragraphs 10 and 12 of the Rules in effect grant the Panel sole discretion to determine the admissibility of Supplemental Filings (including further statements or documents) received from either Party.

On September 6, 2024, the Complainant submitted an unsolicited supplemental filing to the Center providing evidence that the disputed domain name has been used in connection with a fraudulent email scheme whereby the Respondent impersonates an employee of the Complainant. Noting that the fraudulent emails seem to have been sent after the Complaint was filed, the Panel decided to take the Complainant's supplemental filing of September 6, 2024, and the provided additional annexes into account in order to render a decision in this case.

### **6.2 Substantive Considerations**

#### **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 PLUXEE is recognizable within the disputed domain name <plvxeeegroup.com>. 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 Panel finds the disputed domain name consists of intentional misspelling of the Complainant's trademark, whereas letter "u" in the mark PLUXEE is replaced with letter "v" in the disputed domain name. Thus, the disputed domain name is confusingly similar to the Complainant's for purposes of the Policy. [WIPO Overview 3.0](#), section 1.9.

Although the addition of other terms here, "group", may bear on assessment of the second and third elements, the Panel finds the addition of such term mocking the Complainant's company name and its official website 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.

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 available evidence does not confirm that the Respondent is commonly known by the disputed domain name, which could demonstrate his rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainant did not license or otherwise agree for use of its prior registered trademarks by the Respondent, thus no actual or contemplated bona fide or legitimate use of the disputed domain name could be reasonably claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

Noting the high risk of implied affiliation between the disputed domain name and the confusingly similar known trademark of the Complainant, the Panel finds that there is no plausible fair use to which the disputed domain name could be put that would not have the effect of being somehow connected to the Complainant (see, e.g., *Instagram, LLC v. Super Privacy Service LTD c/o Dynadot / Zayed*, WIPO Case No. [D2019-2897](#)).

Additionally, Panels have held that the use of a domain name for illegal activity such as impersonation/passing off, or other types of fraud 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 registered the disputed domain name confusingly similar to the known Complainant's fanciful trademark applying intentional misspelling and mocking the Complainant's company name and name of the Complainant's official website, which confirms the Respondent knew or should have known of the Complainant and its prior rights, and targeted the Complainant and its trademark, which confirms bad faith.

Further, the disputed domain name resolves to a page with no content but has been used in a fraudulent email scheme. Panels have held that the use of a domain name for illegal activity such as impersonation/passing off, or other types of fraud 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 <plvxeegroup.com> be transferred to the Complainant.

*/Taras Kyslyy/*

**Taras Kyslyy**

Sole Panelist

Date: October 2, 2024