

ADMINISTRATIVE PANEL DECISION

Sodexo Pass International v. 王化德 (Hua De Wang)
Case No. D2023-4138

1. The Parties

Complainant is Sodexo Pass International, France, represented by Areopage, France.

Respondent is 王化德 (Hua De Wang), China.

2. The Domain Name and Registrar

The disputed domain name <pluxeemobil.com> (the “Domain Name”) is registered with Cloud Yuqu LLC (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on October 4, 2023. On October 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 8, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Unknown identity) and contact information in the Complaint. The Center sent an email communication to Complainant on October 11, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint in English on October 13, 2023.

On October 11, 2023, the Center informed the parties in Chinese and English, that the language of the registration agreement for the Domain Name is Chinese. On October 12, 2023, Complainant requested English to be the language of the proceeding. Respondent did not submit any comment on Complainant’s submission.

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 Respondent of the Complaint, and the proceedings commenced on October 17, 2023. In accordance with the Rules, paragraph 5, the due

date for Response was November 6, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on November 14, 2023.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on November 23, 2023. 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

Complainant, Sodexo Pass International, is a branch of the French company Sodexo Group, which specializes in food services, facilities management and benefit and reward services, with 422,000 employees serving 100 million consumers daily in 53 countries. Complainant specializes in the benefit and reward services section of Sodexo Group, and delivers over 250 products to 36 million consumers in 31 countries.

Complainant owns several registered trademarks with the PLUXEE mark, including:

- French trademark registration number 4905284 for the PLUXEE word mark, registered on October 14, 2022;
- International trademark registration number 1706936 for the PLUXEE word mark, registered on November 2, 2022, designating: Austria, Bulgaria, Brazil, Benelux, Chile, China (where Respondent resides and operates), Colombia, Czech Republic, Germany, Spain, United Kingdom, Indonesia, Israel, India, Italy, Morocco, Mexico, Philippines, Poland, Portugal, Romania, Tunisia, Turkey, Ukraine, United States of America, and Viet Nam; and
- Peruvian trademark registration number 00035958 for the PLUXEE word mark, registered on February 7, 2023.

Complainant also owns and operates its main business website at <pluxee.com> and also owns numerous domain names with the PLUXEE mark, including: <pluxee.net>, <pluxee.org>, <pluxee.fr>, etc. which were registered on November 4, 2022.

The Domain Name was registered on November 5, 2022. At the time of the filing of the Complaint, the Domain Name resolved to a pay-per-click ("PPC") parked page prominently featuring the banner "PLUXEEMOBIL.COM" with links such as "Reserver Hotel", "Maison de Vacances En" and "Energie Moins Chere" – which appear to be links to third party commercial websites.

5. Parties' Contentions

A. Complainant

Complainant contends that (i) the Domain Name is identical or confusingly similar to Complainant's trademarks; (ii) Respondent has no rights or legitimate interests in the Domain Name; and (iii) Respondent registered and is using the Domain Name in bad faith.

In particular, Complainant contends that it has trademark registrations for PLUXEE and that Respondent registered and is using the Domain Name with the intention to confuse Internet users looking for *bona fide* and well-known PLUXEE products and services.

Complainant notes that it has no affiliation with Respondent, nor authorized Respondent to register or use a domain name, which includes Complainant's trademark, and that Respondent has no rights or legitimate interests in the registration and use of the Domain Name. Rather, Complainant contends that Respondent has acted in bad faith in registering and setting up the Domain Name, when Respondent clearly knew of Complainant's rights.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceeding

The Rules, in paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement, the language of the proceeding shall be the language of the registration agreement, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

Complainant submitted its original Complaint in English. In its Complaint, email dated October 4, 2023, and amended Complaint, Complainant confirmed its request that the language of the proceeding should be English. According to the information received from the Registrar, the language of the Registration Agreement for the Domain Name is Chinese.

Complainant asserts that they are unable to communicate in Chinese, that the Domain Name is registered in Latin characters, that the Domain Name resolves to a parking page with commercial links in French and not in Chinese. Complainant also contends that any holding the proceeding in Chinese would cause undue delay, considerable expense, unfair disadvantage, and burden Complainant as well as the dispensation of the current matter.

In exercising its discretion to use a language other than that of the Registration Agreement for the Domain Name, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties' ability to understand and use the proposed language, time, and costs.

The Panel accepts Complainant's submissions regarding the language of the proceeding. The Panel notes that the Center notified the Parties in Chinese and English of the language of the proceeding as well as notified Respondent in Chinese and English of the Complaint. Respondent chose not to comment on the language of the proceeding, nor did Respondent choose to file a Response.

The Panel is also mindful of the need to ensure that the proceeding is conducted in a timely and cost-effective manner. Complainant may be unduly disadvantaged by having to translate the Complaint into Chinese and to conduct the proceeding in Chinese.

Having considered all the circumstances of this case, the Panel determines that English be the language of the proceeding.

6.2. Substantive Issues

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name was registered and is being used in bad faith.

Section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)) states that failure to respond to the complainant's contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true.

Thus, although in this case Respondent has failed to respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence. See, e.g., *The Knot, Inc. v. In Knot We Trust LTD*, WIPO Case No. [D2006-0340](#).

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See [WIPO Overview 3.0](#), section 1.2.1. Complainant provided evidence of its rights in the PLUXEE trademarks, as noted above. Complainant has also submitted evidence which supports the position that the PLUXEE trademarks are widely known and a source identifier of Complainant's products and services. Complainant has therefore proven that it has the requisite rights in the PLUXEE trademarks.

In addition to the trademark PLUXEE, the Domain Name also comprises the term "mobil". The addition of the additional term does not prevent a finding of confusing similarity between the Domain Name to Complainant's mark. See [WIPO Overview 3.0](#), section 1.8. As such, the resulting Domain Name must be considered confusingly similar to Complainant's PLUXEE trademark.

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make a *prima facie* showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and its PLUXEE trademarks, and does not have any rights or legitimate interests in the Domain Name. Complainant has confirmed that Respondent is not affiliated with Complainant, or otherwise authorized or licensed to use the PLUXEE trademarks or to seek registration of any domain name incorporating the trademarks. Respondent is also not known to be associated with the PLUXEE trademarks, and there is no evidence showing that Respondent has been commonly known by the Domain Name.

In addition, Respondent has not used the Domain Name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. Rather, it reverts to a webpage with commercial PPC advertising page links. Such use does not constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use and cannot under the circumstances confer on Respondent any rights or legitimate interests in the Domain Name. See, e.g., *Intesa Sanpaolo S.p.A. v. Charles Duke / Oneandone Private Registration*, WIPO Case No. [D2013-0875](#).

Accordingly, Complainant has provided evidence supporting its *prima facie* claim that Respondent lacks any rights or legitimate interests in the Domain Name. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Name. Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Name and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent's actions indicate that Respondent registered and is using the Domain Name in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the 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 you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

The Panel finds that Complainant has provided ample evidence to show that registration and use of the PLUXEE trademarks long predate the registration of the Domain Name. Complainant is also well established and known. Indeed, the record shows that Complainant’s PLUXEE trademarks and related products and services are widely known and recognized. Therefore, Respondent was likely aware of the PLUXEE trademarks when it registered the Domain Name, or knew or should have known that the Domain Name was confusingly similar to Complainant’s trademarks. See [WIPO Overview 3.0](#), section 3.2.2; see also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#).

The Panel therefore finds that Respondent’s awareness of Complainant’s trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); and *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Further, the registration of the Domain Name incorporating Complainant’s PLUXEE trademark in its entirety suggests Respondent’s actual knowledge of Complainant’s rights in the PLUXEE trademarks at the time of registration of the Domain Name and its effort to opportunistically capitalize on the registration and use of the Domain Name.

Moreover, the Domain Name reverts to a webpage with commercial PPC advertising page links. Such use of the Domain Name demonstrates that Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online locations, by creating a likelihood of confusion with Complainant’s PLUXEE trademark.

Finally, the Panel also notes the reputation of the PLUXEE trademarks, Respondent’s history of engaging in a pattern of cybersquatting (see, for example, *Build-A-Bear Workshop, Inc. v. 王化德 (Hua De Wang)*, WIPO Case No. [D2023-3544](#), and *Teva Pharmaceutical Industries Ltd. v. 王化德 (Huade Wang aka Hua De Wang)*, WIPO Case No. [D2022-5038](#)) and the failure of Respondent to submit a response to the Complaint.

Accordingly, the Panel finds that Respondent has registered and is using the Domain Name in bad faith and Complainant succeeds under the third element of paragraph 4(a) 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 Domain Name <pluxeemobil.com> be transferred to Complainant.

/Kimberley Chen Nobles/

Kimberley Chen Nobles

Sole Panelist

Date: December 7, 2023