

## **ADMINISTRATIVE PANEL DECISION**

Groupe VYV v. Idah Idah

Case No. D2024-1652

### **1. The Parties**

The Complainant is Groupe VYV, France, represented by IP Twins, France.

The Respondent is Idah Idah, Indonesia.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 19, 2024. On April 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 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 (Redacted for Privacy, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 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 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 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 19, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 20, 2024.

The Center appointed Marilena Comanescu 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, Groupe VYV, is the Mutual Group Union created in 2017, in order to constitute a mutual health and social protection center, by acting in particular on all the determinants of health (care, housing, prevention, etc.). The Complainant is a leading mutual health and social protection player in France with over 100 million people protected, operating through seven different brands, with 500 points of contact in France and a global turnover of over 10 billion Euros.

The Complainant owns the French trademark registration number 4558634 for OXANTIS (word mark), filed on June 11, 2019, registered on March 27, 2020, covering goods and services in International classes 9, 35, 36, 38, 39, 41, 42, and 44.

The Complainant owns a dozen of domain names incorporating the OXANTIS mark, in particular the domain names <oxantis.com>, <oxantis.net> and <oxantis.fr>, all registered on May 10, 2019.

The disputed domain name was registered on November 30, 2023, and, at the time of filing of the Complaint, it resolves to a website listing pay-per-click ("PPC") links.

According to Annex 14 to the amended Complaint, the Respondent owns domain names, some of them incorporating third parties trademarks.

#### **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 similar to the point of confusion to its trademark OXANTIS; the Respondent has no rights or legitimate interests in the disputed domain name; the disputed domain name has been registered in bad faith, using the same Top-Level Domain ("TLD") as the main domain name of the Complainant <oxantis.net>, this clearly showing the Respondent's intent to target the Complainant; the Respondent is using the disputed domain name in bad faith; another domain name was registered by the Respondent in the same day and with the same Registrar, incorporating the trademark of a third party-provider of health services payment, and, between January 27 and 29, 2024 a massive phishing attack against several actors of the mutual health insurance sector, including the Complainant, led to a data leak of up to 33 million people – such facts cannot be a mere coincidence; the Respondent is concealing its identity and it also registered a large number of domain names, some reproducing or imitating third-party trademarks, which clearly demonstrates the Respondent's pattern of bad faith behavior.

##### **B. Respondent**

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

## 6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in 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 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 is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the letter "s" at the end of the mark, here, may bear on assessment of the second and third elements, the Panel finds the addition of such letter, a misspelling of the mark, 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 1.9.

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 Respondent has used the disputed domain name in connection with PPC links related to various services and, in this regard, panels have held that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the Complainant's mark or otherwise mislead Internet users. [WIPO Overview 3.0](#), section 2.9.

The composition of the disputed domain name, reproducing the Complainant's distinctive trademark, with a minor alteration. There is a risk that Internet users will not notice the subtle misspelling. In the present case, the Panel therefore finds that the composition of the disputed domain name carries a risk of implied affiliation with the Complainant as it may mistakenly be seen as effectively impersonating or suggesting some connection with the Complainant.

Furthermore, the Panel notes that the Complainant asserts the disputed domain name could be involved in phishing attacks that were conducted in the mutual health insurance sector in France in January 2024, to which has not been rebutted by the Respondent.

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 disputed domain name was registered in bad faith, with knowledge of the Complainant and its trademark and business particularly because the disputed domain name reproduces the Complainant's trademark and its own domain name <oxantis.net> with a minor alteration, and the Complainant's trademark was registered about four years before the registration of the disputed domain name.

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.

At the time of filing of the Complaint, the disputed domain name resolved to a page providing PPC links promoting various goods and services.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] 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 [the respondent's] website or location or of a product or service on [the respondent's] website or location" is evidence of registration and use in bad faith.

The Respondent was using without permission the Complainant's trademark, reproduced with a slight alteration, in order to get traffic on its web portal and to misleadingly divert Internet users to third party websites, and thus to potentially obtain commercial gain from the false impression created with regard to a potential affiliation or connection with the Complainant.

According to the amended Complaint, as detailed in Section 4 above, the Respondent owns several domain names incorporating third party trademarks. Paragraph 4(b)(ii) of the Policy provides another circumstance of bad faith registration and use when the respondent registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct. See section 3.1.2 of the [WIPO Overview 3.0](#).

The Respondent has not participated in the present proceeding, used a privacy service and apparently provided inaccurate/incomplete contact information in the Whois, which prevented the delivery of the Center's Written Notice. Such facts, together with all the other elements in this case, support, in the eyes of this Panel, a finding of bad faith behavior.

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 <oxantiss.net> be transferred to the Complainant.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: June 7, 2024