

ADMINISTRATIVE PANEL DECISION

Sodexo Pass International v. Geraldo Brasil Bodingbaner de Abreu,
JobHome Serviços de Teleatendimento Ltda
Case No. D2023-4140

1. The Parties

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

The Respondent is Geraldo Brasil Bodingbaner de Abreu, JobHome Serviços de Teleatendimento Ltda, Brazil.

2. The Domain Name and Registrar

The disputed domain name <pluxeebeneficios.com> is registered with HOSTINGER operations, UAB (the "Registrar").

3. Procedural History

The Complaint was filed 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 disputed domain name. On October 5, 2023, 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 (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 11, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On the same day, the Respondent sent an informal communication to the Center. The Complainant filed an amended Complaint on October 13, 2023.

The Center verified that the Complaint 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 October 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Commencement of Panel Appointment on November 15, 2023.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on November 21, 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

The Complainant's Group is one of the largest companies in the world specialized in foodservices, facilities management, and benefit and reward services, with 422,000 employees serving daily 100 million consumers in 53 countries.

The Complainant is the Group's branch specialized in benefit and reward services developed in France since 1976. The Complainant benefits and rewards services delivers over 250 products to 36 million consumers through 500,000 clients connected to 1.7 million affiliated merchants in 31 countries and it continues to grow. In line with its strategy of growth, the benefit and reward services are now rendered under the name PLUXEE, such as their website at: "www.pluxeegroup.com".

The Complainant also owns numerous domain names corresponding to and/or containing the disputed domain name PLUXEE: <pluxeegroup.com>, <pluxee.net>, <pluxee.info>, <pluxee.biz>, <pluxee.org>, <pluxee.eu>, <pluxee.fr>, <pluxee.asia>, <pluxee.at>, <pluxee.be>, <pluxee.com.br>, <pluxee.ca>, <pluxee.cl>, <pluxee.co>, <pluxee.cz>, <pluxee.de>, <pluxee.fi>, <pluxee.id>, <pluxee.in>, <pluxee.io>, <pluxee.it>, <pluxee.ma>, <pluxee.mx>, <pluxee.nl>, <pluxee.pl>, <pluxee.pt>, <pluxee.ro>, <pluxee.ru>, <pluxee.se>, <pluxee.com.tr>, <pluxee.com.ua>, <pluxee.uk>, and <pluxee.us>.

The Complainant owns the following registered marks PLUXEE:

- PLUXEE, international trademark registration No. 1 706 936, registered on November 2, 2022, under priority of the French trademark registration No. 22 4 905 284 of October 14, 2022, in international classes 9, 16, 35, 36, 42, and 43, to designate the following countries: Austria, Bulgaria, Brazil, Benelux, Chile, China, Colombia, Czech Republic, Germany, Spain, United Kingdom, Indonesia, Israel, India, Italy, Morocco, Mexico, Philippines, Poland, Portugal, Romania, Tunisia, Türkiye, Ukraine, United States of America, and Viet Nam.
- PLUXEE, French trademark registration No. 4905284, filed on October 14, 2022, in international classes 9, 16, 35, 36, 42, and 43; and
- PLUXEE, Peruvian trademark registration No. 35958, filed on November 4, 2022, under priority of the French trademark registration No. 22 4 905 284 of October 14, 2022, in international classes 9, 16, 35, 36, 42 and 43. The PLUXEE mark has been filed in many other countries of the world.

This disputed domain name was registered on July 19, 2023. Currently, and at the time of filing the Complaint, the disputed domain name resolves to an inactive website.

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 trademarks;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name;
- the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

The Respondent did not file a formal answer to the Complainant's contentions.

However, the Respondent sent an email communication to the Center in Portuguese language stating that they are providers of services to Pluxee from the Sodexo group, that they have an agreement to provide services and to use the domain name for the company. No evidence on these assertions was provided.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements, which a complainant must satisfy in order to succeed. The Complainant must satisfy that:

- (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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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 Panel finds the entirety of the mark is reproduced 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 other terms like "beneficios" may bear on assessment of the second and third elements, the Panel finds the addition of such term 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.

Based on the available record, 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 stated that he is a provider or supplier of services to Pluxee from the Sodexo group, that they have an agreement to provide services and to use the disputed domain name for the company. No evidence on these assertions was provided.

It is the view of this Panel that the Respondent has recognized that he was aware of the Complainant and its trademark but has not proved an express authorization of the Complainant to register and use the Complainant's trademark in the disputed domain name. Mere assertions of legitimate interest are not enough to prove the second element of the Policy.

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.

In the present case, the Panel notes that:

- the disputed domain name was registered and is being used in bad faith, as the trademark PLUXEE is purely fanciful and nobody could legitimately choose this word or any variation thereof (in particular associated with the word "benefits" in Portuguese), unless seeking to create an association with the Complainant's activities and PLUXEE mark.
- the addition of the word "beneficios" in the disputed domain name at issue is not sufficient to distinguish it from the Complainant's marks specially because the Complainant trademark PLUXEE is precisely used by the Complainant for benefits and rewards services.
- the Respondent has recognized that he is aware of the Complainant and its trademark.

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 found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [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.

Based on the available record, 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 <pluxeebeneficios.com> be transferred to the Complainant.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: December 5, 2023.