

## **ADMINISTRATIVE PANEL DECISION**

PlaneSense, Inc. v. Ronald Mayersohn  
Case No. D2024-4665

### **1. The Parties**

Complainant is PlaneSense, Inc., United States of America ("United States" or "U.S."), represented by Hayes Soloway PC, United States.

Respondent is Ronald Mayersohn, United States.

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

The disputed domain name <planesenses.com> (the "Domain Name") is registered with GoDaddy.com, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 12, 2024. On November 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 14, 2024, 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 and contact information in the Complaint.

The Center sent an email communication to Complainant on November 15, 2024, 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 on November 15, 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 Respondent of the Complaint, and the proceedings commenced on November 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 9, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on December 10, 2024.

The Center appointed John C. McElwaine as the sole panelist in this matter on December 17, 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**

Complainant is a brokerage and management company for time-sharing interests and fractional interests in aircraft. Complainant owns U.S. Reg. No. 2886480 for the mark PLANESENSE, registered on September 21, 2004, which has been in use since at least September 17, 1995 (hereinafter the “PLANESENSE Mark”).

Complainant provides its services via the domain name <planesense.com>.

The Domain Name was registered on October 24, 2024. Shortly after registration, the Domain Name was used as part of a phishing scheme targeting Complainant’s customers. Specifically, on November 4, 2024, many of Complainant’s clients received a phishing email from an address associated with the Domain Name. Two days later, on November 6, 2024, additional clients received another phishing email requesting a DocuSign signature.

#### **5. Parties’ Contentions**

##### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

With respect to the first element of the Policy, Complainant asserts that the Domain Name is confusingly similar to its registered PLANESENSE Mark as it incorporates the mark in its entirety with only the addition of the letter “s”.

With respect to the second element of the Policy, Complainant alleges that Respondent has no rights or legitimate interests in the Domain Name. Complainant has not authorized Respondent to use its marks. Moreover, Respondent is using the Domain Name as part of a fraudulent scheme targeting Complainant’s customers. Specifically, Exhibits D and E to the Complaint show phishing emails sent on November 4 and November 6, 2024, where Respondent impersonated Complainant to attempt to obtain sensitive financial and/or business information from Complainant’s client.

With respect to the third element of the Policy, Complainant asserts bad faith registration and use based on Respondent’s fraudulent scheme. The evidence shows Respondent registered the Domain Name on October 24, 2024 – nearly 30 years after Complainant began using its mark – and immediately began using it to send phishing emails impersonating Complainant. The emails made prominent use of Complainant’s marks and attempted to deceive recipients into providing sensitive information.

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

Respondent did not reply to Complainant’s contentions.

#### **6. Discussion and Findings**

Even though Respondent has defaulted, paragraph 4(a) of the Policy requires that, in order to succeed in this UDRP proceeding, Complainant must still prove its assertions with evidence demonstrating:

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

Because of Respondent's default, the Panel may accept as true the reasonable factual allegations stated within the Complaint and may draw appropriate inferences therefrom. See *St. Tropez Acquisition Co. Limited v. AnonymousSpeech LLC and Global House Inc.*, WIPO Case No. [D2009-1779](#); *Bjorn Kassoe Andersen v. Direction International*, WIPO Case No. [D2007-0605](#); see also paragraph 5(f) of the Rules ("If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint"). Having considered the Complaint, the Policy, the Rules, the Supplemental Rules, and applicable principles of law, the Panel's findings on each of the above-cited elements are as follows.

#### **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 Complainant's trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7. 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. [WIPO Overview 3.0](#), section 1.2. On this point, Complainant has provided evidence that it is the owner of a U.S. registration for the PLANESENSE Mark. The Panel also finds the mark is recognizable within the Domain Name and that the Domain Name could be a typo version of the PLANESENSE Mark by the addition of the letter "s" to the Domain Name. Accordingly, the Domain Name is confusingly similar to Complainant's trademark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.9.

Based on the available record, the Panel finds the first element of the Policy has been established.

#### **B. Rights or Legitimate Interests**

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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Name. 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 Domain Name such as those enumerated in the Policy<sup>1</sup> or otherwise.

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<sup>1</sup> The Policy, paragraph 4(c), provides a non-exhaustive list of circumstances in which a respondent could demonstrate rights or legitimate interests in a contested domain name: "(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

As an initial matter, there is no evidence that Respondent is commonly known by the Domain Name. The Panel therefore finds, based on the record and the lack of evidence otherwise, that Respondent is not commonly known by the Domain Name. See e.g., *Moncler S.p.A. v. Bestinfo*, WIPO Case No. [D2004-1049](#) (the Panel notes that the respondent's name is "Bestinfo" and that it can therefore not be "commonly known by the Domain Name.").

The Panel finds that using the Domain Name for phishing emails impersonating Complainant cannot constitute rights or legitimate interests. As stated in section 2.13.1 of the [WIPO Overview 3.0](#), using a domain name for such illegal activity can never confer rights or legitimate interests on a respondent. The evidence shows that within days of registering the Domain Name, Respondent began using it to send fraudulent phishing emails to at least one of Complainant's clients. The first email was sent on November 4, 2024, attempting to obtain confidential financial information and trade secrets. A second followed on November 6, 2024, requesting the recipient to sign fraudulent DocuSign documents.

Accordingly, the Panel finds that Complainant has made a prima facie case that Respondent lacks rights or legitimate interests in the Domain Name, which Respondent has not rebutted. The Panel concludes that Complainant has satisfied the second element of the Policy.

### **C. Registered and Used in Bad Faith**

Under paragraph 4(a)(iii) of the Policy, Complainant must show that Respondent registered and is using the Domain Name in bad faith. A non-exhaustive list of factors constituting bad faith registration and use is set out in paragraph 4(b) of the Policy.

Here, the evidence shows that Respondent registered the Domain Name to perpetrate a fraud scheme. Complainant's PLANESENSE Mark was intentionally chosen when the Domain Name was registered with the intent to impersonate Complainant for the purpose of engaging in a fraud seeking information from at least one company that thought they were dealing with Complainant. Knowledge of Complainant's business and its PLANESENSE Mark is established by virtue of the fact that Respondent inserted itself into communication with an apparent customer of Complainant, claimed to be "reservations representative" for Complainant, provided a link to Complainant's real website in the email, and used other correct contact information for Complainant.

In light of the evidence demonstrating clear knowledge of Complainant and fraudulent use of the Domain Name, there could be no other legitimate explanation except that Respondent intentionally registered the Domain Name to cloak its actions and deceive recipients into believing the emails were from Complainant. The Domain Name does not appear to have been registered for any other purpose as the Domain Name does not resolve to an active website. Such activity constitutes a disruption of Complainant's business and also establishes bad faith registration and use. *Securitas AB v. Whois Privacy Protection Service, Inc. / A. H.*, WIPO Case No. [D2013-0117](#) (finding bad faith based upon the similarity of the disputed domain name and the complainant's mark, the fact that the complainant is a well-known global security company and the fact that the disputed domain name is being used to perpetrate an email scam.) In addition, registering a domain name with false contact details is commonly held to be bad faith under the Policy (here it is noted that the postal service was not able to deliver the Written Notice). See *Hermes International v. Jack Yong*, WIPO Case No. [D2017-1959](#) ("the fact of a non-existent postal address is difficult to explain"); *TBWA Worldwide, Inc. v. Karim Bendali*, WIPO Case No. [D2019-1932](#) (the postal address revealed by the Registrar was not accurate).

The use of the Domain Name to conduct fraud constitutes a disruption of Complainant's business and also establishes bad faith registration and use pursuant to paragraph 4(b)(iii) of the Policy. *Securitas AB v. Whois Privacy Protection Service, Inc. / A. H.*, WIPO Case No. [D2013-0117](#) (Finding bad faith based upon the similarity of the disputed domain name and the complainant's mark, the fact that the complainant is a well-known global security company and the fact that the disputed domain name is being used to perpetrate an email scam.) As discussed above, Respondent used several other indicia of Complainant in addition to the Domain Name when communicating with a third party with the fraudulent purpose of misleading the recipient

of the emails into believing they were communicating with a representative of Complainant. In light of the actions undertaken by Respondent, and the fact that the Domain Name is almost identical to the Complainant's own domain name, it is inconceivable that Respondent coincidentally selected the Domain Name without any knowledge of Complainant. See e.g., *Arkema France v. Steve Co., Steve Co Ltd.*, WIPO Case No. [D2017-1632](#).

Moreover, it does not matter that a website was not resolving from the Domain Name. [WIPO Overview 3.0](#), section 3.4. In finding a disputed domain name used only for an email scam was bad faith, the panel in *Kramer Law Firm, P.A. Attorneys and Counselors at Law v. BOA Online, Mark Heuvel*, WIPO Case No. [D2016-0387](#), pointed out that numerous UDRP panels have found such impersonation to constitute bad faith, even if the relevant domain names are used only for email communications. See, e.g., *Terex Corporation v. Williams Sid, Partners Associate*, WIPO Case No. [D2014-1742](#) ("Respondent was using the disputed domain name in conjunction with...an email address for sending scam invitations of employment with Complainant"); and *Olayan Investments Company v. Anthono Maka, Alahaji, Koko, Direct investment future company, ofer bahar*, WIPO Case No. [D2011-0128](#) ("although the disputed domain names have not been used in connection with active websites, they have been used in email addresses to send scam emails and to solicit a reply to an 'online location'").

For the reasons set forth above, the Panel holds that Complainant has met its burden under paragraph 4(a)(ii) of the Policy and has established that Respondent registered and is using the Domain Name in bad faith.

## **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, <planesenses.com>, be transferred to the Complainant.

*/John C McElwaine/*

John C McElwaine

Sole Panelist

Date: January 6, 2025