

ADMINISTRATIVE PANEL DECISION

Sodexo v. 莫军霞 (mojunxia)
Case No. D2022-3115

1. The Parties

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

The Respondent is 莫军霞 (mojunxia), China.

2. The Domain Name and Registrar

The disputed domain name <sodexo.fun> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 23, 2022. On August 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 24, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On August 24, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On August 26, 2022, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

The Center verified that the Complaint satisfies 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 in English and Chinese of the Complaint, and the proceedings commenced on September 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 22, 2022.

The Center appointed Joseph Simone as the sole panelist in this matter on September 28, 2022. 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, Sodexo, was founded in 1966 and is one of the largest food services and facilities management companies in the world, with 412,000 employees serving 100 million consumers in 56 countries.

The Complainant provides restaurant and catering services, as well as facility management services, workplace services, benefits and rewards services, and personal and home services.

The Complainant has an extensive global portfolio of SODEXO trade marks, which includes the following:

- International Trade Mark Registration No. 964615 for SODEXO (figurative mark) in Classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45, designating *inter alia* China, the Russian Federation, Singapore, United States of America, registered on January 8, 2008; and
- International Trade Mark Registration No. 1240316 for SODEXO (word mark) in Classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45, designating *inter alia* the United Kingdom, registered on October 23, 2014.

The disputed domain name was registered on July 27, 2022.

The Complainant asserts that at the time of filing of the Complaint, the disputed domain name resolved to an error page. At the time of this decision, the disputed domain name continues to resolve to the same error page.

5. Parties' Contentions

A. Complainant

The Complainant asserts that it has prior rights in the SODEXO trade mark and that it is a leading operator in its field of business.

The Complainant further asserts that the disputed domain name is identical or confusingly similar to the Complainant's SODEXO trade marks.

The Complainant asserts that it has not authorized the Respondent to use the SODEXO mark, and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services.

The Complainant further asserts that, considering the evidence, it is implausible that the Respondent registered the disputed domain name in good faith, and that any use of the disputed domain name must be in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Language of the Proceeding

In accordance with paragraph 11(a) of the Rules:

“[...] the language of the administrative 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.”

In this case, the language of the Registration Agreement for the disputed domain name is in Chinese.

However, the Complainant filed the Complaint in English, and requested the Panel to consider using English as the language of the proceeding, asserting mainly that the Complainant is not familiar with the Chinese language and would have to incur substantial expenses if the Complainant were to submit all documents in the language of the Registration Agreement, and the proceeding would inevitably be unduly delayed.

The Respondent was notified in both Chinese and English of the language of the proceeding and of the commencement of the proceeding and did not object to the Complainant's request that English be the language of the proceeding or submit any response.

Accordingly, the Panel has determined that the language of the proceeding shall be English, and the Panel has issued this decision in English.

B. Identical or Confusingly Similar

The Panel acknowledges that the Complainant has established rights in the SODEXO trade mark in many territories around the world.

Disregarding the generic Top-Level Domain (“gTLD”) “.fun”, the disputed domain name incorporates the Complainant's trade mark SODEXO in its entirety.

The Panel therefore finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its rights in the SODEXO trade marks and in demonstrating that the disputed domain name is identical or confusingly similar to its marks.

C. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, the complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in a disputed domain name. Once such a *prima facie* case is made, the respondent carries the burden of producing evidence in support of its rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant may be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 2.1.

In this case, the Complainant has not authorized the Respondent to use its trade mark. The disputed domain name does not resolve to an active website. Therefore, there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services.

Thus, the Complainant has established its *prima facie* case with sufficient evidence.

The Respondent did not file a response and has therefore failed to assert factors or put forth evidence to establish that he enjoys rights or legitimate interests in the disputed domain name. As such, the Panel concludes that the Respondent failed to rebut the Complainant's *prima facie* showing of the Respondent's

lack of rights or legitimate interests in the disputed domain name, and that none of the circumstances of paragraph 4(c) of the Policy are evident in this case.

Moreover, the nature of the disputed domain name, which is identical to the Complainant's SODEXO trade mark, carries a high risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

D. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trade mark or service mark) or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its 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 its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances in which bad faith may be found. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). The overriding objective of the Policy is to curb the abusive registration of domain names in circumstances where the registrant seeks to profit from and exploit the trade mark of another party. See *Match.com, LP v. Bill Zag and NWLAWS.ORG*, WIPO Case No. [D2004-0230](#).

For reasons discussed under this and the preceding heading, the Panel believes that the Respondent's conduct in this case constitutes bad faith registration and use of the disputed domain name.

When the Respondent registered the disputed domain name, the SODEXO trade marks were already widely-known and directly associated with the Complainant's activities. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trade mark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Given the extensive prior use and fame of the Complainant's marks, in the Panel's view, the Respondent should have been aware of the Complainant's marks when registering the disputed domain name.

The Respondent has provided no evidence to justify its choice of the term "sodexo" in the disputed domain name. In light of the foregoing, it would be unreasonable to conclude that the Respondent was unaware of the Complainant's trade mark at the time he registered the disputed domain name.

The Complainant's registered trade mark rights in SODEXO for its products and services predate the registration date of the disputed domain name by at least one decade. A simple online search (e.g., via Google and Baidu) against the term "sodexo" would have revealed that it is a world-renowned brand.

The Panel is therefore of the view that the Respondent registered the disputed domain name with full knowledge of the Complainant's trade mark rights.

As the disputed domain name resolves to an inactive website, it is necessary to consider whether the currently inactive status of the disputed domain name prevents a finding of bad faith under the doctrine of passive holding. The factors usually considered material to such an assessment have been set out in various prior UDRP decisions, including in *Johnson & Johnson v. Daniel Wistbacka*, WIPO Case No. [D2017-0709](#). Each of the following factors weigh in favor of a determination that the Respondent's passive holding of the disputed domain name satisfies the bad faith requirements under the UDRP. Specifically: (i) the Complainant's SODEXO mark is distinctive and well established, (ii) the Respondent has failed to submit a response to the Complaint or provide any evidence of good-faith use, (iii) the Respondent has provided false or incomplete contact information, as shown by the inability to deliver the Written Notice to the Respondent by courier, and (iv) there is no conceivable good-faith use to which the Respondent could put the disputed domain name.

The Panel therefore finds that the Respondent has registered and used the disputed 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 disputed domain name <sodexo.fun> be transferred to the Complainant.

/Joseph Simone/

Joseph Simone

Sole Panelist

Date: October 12, 2022