

ADMINISTRATIVE PANEL DECISION

Sodexo v. yu xin chen, chenyu xin
Case No. D2023-2939

1. The Parties

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

The Respondent is yu xin chen, chenyu xin, China.

2. The Domain Name and Registrar

The disputed domain name <sodexoshop.com> is registered with GMO Internet Group, Inc. d/b/a Onamae.com (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on July 10, 2023. On July 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 11, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 14, 2023 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 in English on July 19, 2023.

On July 14, 2023, the Center transmitted an email communication to the Parties in English and Japanese regarding the language of the proceeding. On July 17, 2023, the Complainant submitted a 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 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 in English and Japanese of the Complaint, and the proceedings commenced on July 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 10, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 11, 2023.

The Center appointed Masato Dogauchi as the sole panelist in this matter on August 31, 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 is a French company founded in 1966, which is doing business in foodservices and facilities management, with 422,000 employees serving daily 100 million consumers in 53 countries. SODEXO is one of the largest employers worldwide. For fiscal year 2022, the Complainant's consolidated revenues reached 21,1 billion euros which represent by region: 44% North America, 38 % Europe, and 18 % for the rest of the world. The Complainant has many subsidiaries, the name of one of which is SODEXO SHOP EXPERIENCE.

The Complainant has registered SODEXO trademarks, including:

- International Registration for SODEXO, No 964615, registered on January 8, 2008;
- International Registration for SODEXO, No 1240316, registered on October 23, 2014;
- European Registration for SODEXO, No 008346462, registered on June 8, 2009; and
- European Registration for SODEXO, No 006104657, registered on July 16, 2007;

The Complainant also owns domain names corresponding to or containing "sodexo".

The disputed domain name <sodexoshop.com> was registered on May 6, 2023, which resolves to a commercial website of a third company. The website is written in Chinese.

5. Parties' Contentions

A. Complainant

The Complainant's contentions are divided into three parts as follows:

First, the Complainant asserts that the disputed domain name is confusingly similar to its SODEXO trademark. The first part of the disputed domain name is composed of the term "sodexo" associated with the term "shop". The term "sodexo" is identical to the Complainant's trademark and the term "shop" should be considered inoperative to distinguish the disputed domain name from the Complainant's trademark. In addition, considering that the name of one of the Complainant's subsidiaries is "SODEXO SHOP EXPERIENCE", it should be considered that Internet users would believe that the disputed domain name comes from the Complainant group or is linked to the Complainant.

Second, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant contends that the Respondent is not commonly known by the name "SODEXO" or "SODEXO SHOP". The Complainant confirms that the Respondent does not have any affiliation, association, sponsorship or connection with the Complainant and has not been authorized, licensed or otherwise permitted by the Complainant or by any subsidiary or affiliated company to register the disputed domain name and to use it.

Third, the Complainant asserts that the disputed domain name has been registered and is being used in bad faith. The Complainant contends that, since the term SODEXO is purely fanciful and well-known, nobody could legitimately choose this term in the disputed domain name without seeking to create an image that it has some association with the Complainant. With regard to the bad faith use, the Complainant contends that the fact that the disputed domain name resolves to a commercial website of a third company should be considered to show that the disputed domain name is being used to attract potential prospective customers for commercial gain.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Issue: Language of Proceedings

In respect of the language to be used in the administrative proceeding, in accordance with the Rules, paragraph 11(a), the language of the administrative proceeding shall be, in principle, the language of the registration agreement. However, the same provision allows the panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

In the present case, the Registrar has confirmed that the language of the Registration Agreement is Japanese. However, the Panel determines that the language of this proceeding shall be English rather than any other language on the following grounds:

- the Complainant requested to that effect;
- the Respondent surely has become aware of this case filed by the Complainant and did not reply to the notification in both English and Japanese by the Center that the Respondent was invited to indicate its objection, if any, to the Complainant's request for the language by the specified due date;
- the disputed domain name is neither in Japanese nor in Chinese script but in Latin script;
- the disputed domain name resolves to a website of a third company, which is written in Chinese; and
- the use of Japanese language would produce undue burden on the Complainant in consideration of the absence of a Response from the Respondent.

6.2. Substantive Matters

In accordance with the Rules, paragraph 15(a), a panel shall decide a case on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable. Since the Respondent has not made any substantive arguments in this case, the following decision is rendered on the basis of the Complainant's contentions and other evidence submitted by the Complainant.

In accordance with the Policy, paragraph 4(a), in order to qualify for a remedy, the Complainant must prove each of the following:

- (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

The Panel finds that the Complainant has rights in the SODEXO trademark.

The word "sodexoshop" is found in the first part of the disputed domain name, which is naturally divided into two terms, "sodexo" and "shop". Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). In this case, the Panel finds that the term "shop" is commonly a used descriptive term in commercial activities. In addition, noting that the Complainant has a subsidiary named SODEXO SHOP EXPERIENCE, the Panel finds no circumstances not to apply the above principle in finding the confusing similarity in this case.

The last part of the disputed domain name “.com” represents one of the generic Top-Level Domains (“gTLDs”), which is irrelevant in the determination of the confusing similarity between the disputed domain name and the SODEXO trademark.

Therefore, the Panel finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights. The above requirement provided for in paragraph 4(a)(i) of the Policy is accordingly satisfied.

B. Rights or Legitimate Interests

The Panel finds that there is no evidence that shows the Respondent is commonly known by the name “SODEXO” or “SODEXO SHOP”, and that the Respondent is not affiliated with the Complainant or authorized or licensed to use the Complainant’s SODEXO trademark. Moreover, it is found that the disputed domain name resolved to a commercial website of a third company. Since the Respondent did not reply to the Complainant’s contentions in this proceeding, the Panel finds on the available record that the Complainant has established an un rebutted *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. See section 2.1 of the [WIPO Overview 3.0](#).

The above requirement provided for in paragraph 4(a)(ii) of the Policy is accordingly satisfied.

C. Registered and Used in Bad Faith

With regard to the requirement that the Respondent registered the disputed domain name in bad faith, since the Complainant’s SODEXO is sufficiently distinctive and well-known, it is highly unlikely that the Respondent would not have known of the Complainant’s rights in the trademark at the time of registration of the disputed domain name. Therefore, it is found that the Respondent registered the disputed domain name in bad faith.

On the other hand, with regard to the requirement that the Respondent is using the disputed domain name in bad faith, the fact that the disputed domain name resolves to a commercial website of a third company and Internet users who would like to know information of the Complainant or its service would unintentionally visit the website is enough to show that the Respondent’s use of the disputed domain name is being done in bad faith.

Since the Respondent did not reply to the Complaint in this proceeding, the Panel finds that the disputed domain name has been registered in bad faith and is being used in bad faith. The above requirement provided for in paragraph 4(a)(iii) of the Policy is accordingly satisfied.

In conclusion, all three cumulative requirements as provided for in paragraph 4(a) of the Policy are determined to be satisfied.

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 <sodexoshop.com> be transferred to the Complainant.

/Masato Dogauchi/

Masato Dogauchi

Sole Panelist

Date: September 14, 2023