

ADMINISTRATIVE PANEL DECISION

Sodexo v. Jiang Bo Dong, Dongjiang Bo
Case No. D2022-0636

1. The Parties

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

Respondent is Jiang Bo Dong, Dongjiang Bo, China.

2. The Domain Name and Registrar

The disputed domain name <sodehxo.com> (the “Disputed Domain Name”) is registered with CNOBIN Information Technology Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 23, 2022. On February 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 25, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on February 25, 2022, 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 March 2, 2022.

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 March 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 22, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 23, 2022.

The Center appointed Douglas M. Isenberg as the sole panelist in this matter on March 25, 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

Complainant states that it is “one of the largest companies in the world specialized in foodservices and facilities management, with 420[,000] employees serving 100 million consumers in 64 countries”; that it had consolidated revenue of EUR 19.3 billion in 2020 fiscal year; that it “promoted its business under the SODEXHO mark and trade name” from 1966 to 2008 before it “simplified the spelling of its mark and name to SODEXO”. Complainant also states that it is the registrant of “numerous domain names corresponding to and/or containing Sodexo or Sodexho”, including <sodexho.fr>, <sodexho.com>, <sodexo.com>, <uk.sodexo.com>, <sodexoprestige.co.uk>, <sodexo.fr>, <sodexoca.com>, <sodexousa.com>, and <cn.sodexo.com>.

Complainant further states, and provides documentation in support thereof, that it owns registrations for the trademark SODEXHO or SODEXO in 64 countries, including Chinese Registration Nos. 1,160,675, 1,151,965, and 1,149,743 for SODEXHO (each of which was registered on March 21, 1998, February 14, 1998, and February 7, 1998 respectively) (the “SODEXHO Trademark”); and International Registration No. 964,615 for SODEXO (registered on January 8, 2008, designating China) (the “SODEXO Trademark”).

The Disputed Domain Name was created on December 25, 2021, and is not being used in connection with an active website.

5. Parties' Contentions

A. Complainant

Complainant contends, in relevant part, as follows:

- The Disputed Domain Name is confusingly similar to the SODEXHO Trademark because “[t]he only difference between the signs is the reversal of the letters H and X”; and that it is confusingly similar to the SODEXO Trademark because “[t]he only difference between the signs is the addition of the letter H”.
- Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, *inter alia*, “has no rights on SODEXHO or SODEXO as corporate name, trade name, shop sign, mark or domain name that would be prior to the Complainant’s rights”; “Respondent was not commonly known by the concerned domain name prior to the adoption and use by the Complainant of the corporate name, business name and mark SODEXHO / SODEXO”; and “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 concerned domain name and to use it”.
- The Disputed Domain Name was registered and is being used in bad faith because, *inter alia*, “[t]he word SODEXHO / SODEXO is purely fanciful and nobody could legitimately choose this word or any variation thereof, unless seeking to create an association with the Complainant”; “[e]ven if the disputed domain name, which has been recently created, does not presently have any active content, a passive holding of a domain name does not prevent a finding of bad faith”; and “bad faith use may also result from the threat of an abusive use of the domain name at issue by the Respondent”.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Pursuant to the Policy, Complainant is required to prove the presence of each of the following three elements to obtain the relief it has requested: (i) the Disputed 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 Disputed Domain Name; and (iii) the Disputed Domain Name has been registered and is being used in bad faith. Policy, paragraph 4(a).

A. Identical or Confusingly Similar

Based upon the trademark registrations cited by Complainant, it is apparent that Complainant has rights in and to the SODEXHO Trademark and the SODEXO Trademark.

As to whether the Disputed Domain Name is identical or confusingly similar to the SODEXHO Trademark or the SODEXO Trademark, the relevant comparison to be made is with the second-level portion of the Disputed Domain Name only (*i.e.*, “sodehxo”) because “[t]he applicable Top Level Domain (‘TLD’) in a domain name (*e.g.*, ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test”. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.11.1.

As set forth in section 1.9 of the [WIPO Overview 3.0](#): “A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. [...] Examples of such typos include [...] the addition or interspersing of other terms or numbers.” Here, the Disputed Domain Name contains one additional letter (“h”) than the SODEXO Trademark, and it transposes two letters (“x” and “h”) in the SODEXHO Trademark.

Accordingly, the Panel finds that Complainant has proven the first element of the Policy.

B. Rights or Legitimate Interests

Complainant has argued that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, *inter alia*, “has no rights on SODEXHO or SODEXO as corporate name, trade name, shop sign, mark or domain name that would be prior to the Complainant’s rights”; “Respondent was not commonly known by the concerned domain name prior to the adoption and use by the Complainant of the corporate name, business name and mark SODEXHO / SODEXO”; and “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 concerned domain name and to use it”.

[WIPO Overview 3.0](#), section 2.1, states: “[w]hile 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

The Panel finds that Complainant has established its *prima facie* case and without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has satisfied the second element of the Policy.

C. Registered and Used in Bad Faith

Whether a domain name is registered and used in bad faith for purposes of the Policy may be determined by

evaluating four (non-exhaustive) factors set forth in the Policy: (i) circumstances indicating that the registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the registrant's documented out-of-pocket costs directly related to the domain name; or (ii) the registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant'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 registrant's website or location or of a product or service on the registrant's website or location. Policy, paragraph 4(b).

As set forth above, the Disputed Domain Name is not associated with an active web page. As set forth in section 3.3 of the [WIPO Overview 3.0](#):

"From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or 'coming soon' page) would not prevent a finding of bad faith under the doctrine of passive holding.

While 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, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put."

Citing *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

Here, it is apparent that the SODEXO Trademark and the SODEXHO Trademark are very distinctive, as previous panels have referred to the marks as "famous" (*Sodexho Alliance v. LaPorte Holdings, Inc.*, WIPO Case No. [D2005-0287](#)), "well known" (*SODEXO v. SODEXHO Catering, CID-300335SOD, CID-512981SOD, Ilker Sirin*, WIPO Case No. [D2013-1950](#)), and "highly distinctive" (*Sodexo v. Registration Private, Domains By Proxy, LLC / Krissa Pucket*, WIPO Case No. [D2020-1315](#)). Further, Respondent has not submitted a response, and it is implausible that the Disputed Domain Name could be put to any good faith use.

Moreover, as set forth in section 3.1.4 of the [WIPO Overview 3.0](#), "Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith".

Accordingly, the Panel finds that Complainant has proven 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, <sodehxo.com>, be transferred to Complainant.

/Douglas M. Isenberg/

Douglas M. Isenberg

Sole Panelist

Date: April 7, 2022