

ADMINISTRATIVE PANEL DECISION

Sodexo v. Huade Wang

Case No. D2022-1446

1. The Parties

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

The Respondent is Huade Wang, China.

2. The Domain Name and Registrar

The disputed domain names <mysodexosavingspaln.com> and <mysodexosavinsplan.com> are registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 22, 2022. On April 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 22, 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 the Complainant on April 26, 2022 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 on April 29, 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 sent notification to the Respondent of the Complaint, and the proceedings commenced on May 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 22, 2022. The Respondent did not submit any response. Accordingly, the Center sent notification of the Respondent’s default on May 25, 2022. After the Notification of Respondent Default, the Center noticed that the name of the Registrant had been omitted in the Notice of Registrant Information of April 26, 2022. Consequently, the Amended Complaint included Registrant address but did not include the underlying registrant’s name. As such, the Center notified the Complainant

that the Center had inadvertently omitted the Respondent's name in its Notice of Registrant Information email dated April 26, 2022. The Center also provided the Complainant with the Respondent's name Huade Wang and confirm that it would proceed with panel appointment.

The Center appointed Petra Pecar as the sole panelist in this matter on June 10, 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 is a French company founded in 1966 and is one of the largest companies in the world, specializing in foodservice and facilities management, with over 410,000 employees in its group, serving 100 million consumers in 56 countries.

From 1966 to 2008, the Complainant conducted its business under the SODEXHO trademark and trade name. In 2008, the Complainant simplified the spelling of its trademark and trade name and started using the SODEXO trademark.

The Complainant owns a number of registered trademarks for SODEXO (or the older version SODEXHO), including the following:

- International Trademark Registration No. 964615, registered on January 8, 2008, for SODEXO (word and device);

-International Trademark Registration No.1240316, registered on October 23, 2014, for SODEXO (word);

-International Trademark Registration No. 689106, registered on January 28, 1998, for SODEXHO (word and device);

-International Trademark Registration No. 694302, registered on June 22, 1998, for SODEXHO (word and device); and

-European Union Trademark for Registration No. 008346462, registered on February 01, 2010 for SODEXO (word).

The Complainant owns numerous domain name registrations corresponding to and/or containing SODEXO or SODEXHO trademarks. The Complainant promotes its activities, among others, under the following domain names: <sodexo.com>, <sodexoprestige.co.uk>, <sodexo.fr>, <sodexoca.com>, <sodexousa.com>, <cn.sodexo.com>, <sodexho.fr>, <sodexho.com>, etc.

The disputed domain names were registered on April 12, 2022, and at the time of this decision resolve to parking pages containing pay-per-click sponsored links.

5. Parties' Contentions

A. Complainant

The Complainant submits that the disputed domain names are confusingly similar to its well-known and distinctive trademark SODEXO. The addition of the descriptive words "my", "savings", "plan" and misspelled words "savins" and "paln" does nothing to distinguish the disputed domain names from the Complainant's trademark.

The Complainant stresses that the reputation and well-known character of the SODEXO trademark have been established in numerous past decisions under the UDRP, including, *Sodexo v. 张存硕 (Cun Shuo Zhang)*, WIPO Case No. [D2020-0312](#); *SODEXO v. Contact Privacy Inc. Customer 1246053778 / Edwin Smith*, WIPO Case No. [D2020-0566](#); *SODEXO v. Contact Privacy Inc. Customer 1245764941 / Chivers Michael*, WIPO Case No. [D2020-0673](#); *SODEXO v. Wis INC, Wis INC*, WIPO Case No. [D2020-0887](#); *SODEXO v. WhoisGuard Protected, WhoisGuard, Inc. / Austin Miller, Llyods Limited*, WIPO Case No. [D2020-0957](#); *Sodexo v. Contact Privacy Inc. Customer 1246780534 / Chivers Michael*, WIPO Case No. [D2020-0865](#); *Sodexo v. WhoisGuard Protected, WhoisGuard, Inc. / New World*, WIPO Case No. [DCO2020-0021](#); *Sodexo v. Contact Privacy Inc. Customer 1247228940 / James Lehman*, WIPO Case No. [D2020-1281](#); *Sodexo v. Registration Private, Domains By Proxy, LLC / Krissa Pucket*, WIPO Case No. [D2020-1315](#); *Sodexo v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1580](#); *Sodexo v. Contact Privacy Inc. Customer 1247189803 / NorAm Accounts Receivable*, WIPO Case No. [D2020-1683](#); *SODEXO v. Super Privacy Service LTD c/o Dynadot / Zhichao*, WIPO Case No. [D2020-1762](#); *SODEXO v. Zhichao Yang (杨智超)*, WIPO Case No. [D2020-2286](#); *SODEXO v. Ashutosh Dwivedi, Food & Beverages*, WIPO Case No. [D2020-2686](#); *SODEXO v. 李金梁 (Li Jin Liang)*, WIPO Case No. [D2020-3064](#); *Sodexo v. Domains By Proxy, LLC, DomainsByProxy.com / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-3085](#); *Sodexo v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2021-0472](#); *Sodexo v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2021-0485](#); *Sodexo v. Daniela Ortiz*, WIPO Case No. [D2021-0628](#); WIPO Case No. [D2021-0629](#); *Sodexo v. Yang Zhichao (杨智超)*, WIPO Case No. [D2021-0902](#) and *Sodexo v. Lloyd Group*, WIPO Case No. [D2021-1214](#).

The Complainant states that the Respondent was not commonly known by the disputed domain names prior to the adoption and use by the Complainant of the corporate name, business name and trademark SODEXO and SODEXHO. The Complainant also states 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 of the Complainant to register the disputed domain names and to use them.

The Complainant stresses that the trademark SODEXO consists of purely fanciful word and nobody could legitimately choose such word or any variation thereof (especially associated with the expression MY SAVINGS PLAN), unless seeking to create an association with the Complainant.

The Complainant argues that the disputed domain names were registered at a time when the Complainant's global reputation was well established and the Respondent must have been aware of that reputation, which points to registration in bad faith. The Complainant argues that the Respondent uses the disputed domain names for parking pages with sponsored links ("pay-per-click"), which indicates use in bad faith.

B. Respondent

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

6. Discussion and Findings

Even if the Respondent did not file a Response to the Complainant's contentions, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainant. "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable", as indicated in paragraph 15(a) of the Rules.

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (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 by the Respondent in bad faith.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must, firstly, establish rights in a trademark or service mark and, secondly, establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, "[WIPO Overview 3.0](#)"). The Panel finds that the Complainant has provided evidence of ownership of registration for the SODEXO trademark, demonstrating that it has rights in the SODEXO trademark, through registrations, which predate the registration date of the disputed domain names.

The Panel finds that the Complainant has established relevant rights in the SODEXO trademark and that the disputed domain names incorporate the SODEXO trademark in its entirety. The Complainant's trademark is clearly recognizable within the disputed domain names, and the addition of the descriptive words "my", "savings" and "plan" and misspelled words "savins" and "paln" does not avoid a finding of confusing similarity. The spelling mistakes consist of reversing the letter A and L in the domain name <mysodexosavingspaln.com> and deletion of the letter G in the domain name <mysodexosavinsplan.com>. It seems obvious that the Respondent has intentionally chosen the misspelled version of these additional terms (which are closely related to the Complainant and its business) within the disputed domain names with the intention to create an association with the SODEXO trademark. In that sense, the disputed domain names should form the phrase "MY SODEXO SAVINGS PLAN" which is widely used by the Complainant. This is a behavior, which is similar to the practice of typosquatting (where respondents are misspelling complainants' trademarks) that clearly indicates the resemblance with the Complainant's trademark put in the context of the (misspelled) phrase used by the Complainant.

Finally, it is well-accepted practice by previous UDRP panels that a generic Top-Level Domain ("gTLD"), such as ".com", is typically ignored when assessing whether a domain name is identical or confusingly similar to a trademark (see section 1.11.1 of the [WIPO Overview 3.0](#)). Accordingly, the Panel determines that the disputed domain names are confusingly similar to the Complainant's trademarks.

In accordance with the above, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its trademark rights and showing that the disputed domain names are confusingly similar to its SODEXO trademark.

B. Rights or Legitimate Interests

Under the second element of the Policy, a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is generally deemed to have satisfied the second element, as set out in paragraph 4(a)(ii) of the Policy (see also [WIPO Overview 3.0](#), section 2.1.).

Moreover, the Policy provides guidance to respondents on how to demonstrate rights or legitimate interests in the domain name. In particular, paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name, including: (i) use of the domain name "in connection with a bona fide offering of goods or services"; or (ii) demonstration that the Respondent has been "commonly known by the

domain name”; or (iii) “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”.

The Panel notes that the Respondent has not filed a response and thus did not contest the Complainant's arguments, nor brought any information or evidence for demonstrating any rights or legitimate interests in respect of the disputed domain names. The Complainant has submitted *prima facie* evidence showing that the Respondent does not have any rights or legitimate interests in the disputed domain names, particularly by asserting that the Respondent is not connected with the Complainant or the disputed domain names, nor affiliated with it in any way and that the Complainant has never authorized, licensed or permitted the Respondent to use its trademark as part of the disputed domain names.

The Respondent is not commonly known under the disputed domain names, does not own any rights in the name SODEXO, and appears not to make any *bona fide* offering of goods and services – either commercial or noncommercial, on the disputed domain names.

The Complainant contends that the Respondent has been using the disputed domain names for parking pages with pay-per-click links that can compete with or capitalize on the reputation and goodwill of the Complainant's trademark or otherwise mislead Internet users. Such use of the disputed domain names rarely can represent *bona fide* offerings of goods and services in accordance with section 2.9 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the Complainant has made a *prima facie* demonstration of the Respondent's lack of rights or legitimate interests in respect of the disputed domain names, which has not been rebutted by the Respondent, and that the Complainant has accordingly established the second element of the Policy in accordance with paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires the Complainant to demonstrate that the Respondent registered and is using the disputed domain name in bad faith. The Policy describes several non-exhaustive circumstances demonstrating a Respondent's bad faith registration and use. Under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when, by using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

The Complainant has substantiated that its SODEXO trademark, was registered in 2007, 15 years before the registration of the disputed domain names and was also used long before the registration of the disputed domain names. Furthermore, as indicated by a number of previous panels, the Complainant's SODEXO trademark enjoys significant reputation throughout the world, making it rather unlikely for anyone to register a domain name comprising such a widely known and distinctive word out of mere coincidence. On the contrary, the disputed domain names consist of the Complainant's SODEXO trademark in its entirety and the descriptive terms “my”, “savings” and “plan” and their misspelled version as “savins” and “paln”, which are making a clear reference to the phrase “MY SODEXO SAVINGS PLAN” that is widely used by the Complainant. Having in mind the above, it seems very unlikely that the Respondent registered the disputed domain names without the Complainant and its SODEXO trademark on his mind and therefore, the Panel holds that the disputed domain names were registered in bad faith.

The Complainant provided evidence of the Respondent's use of the disputed domain names in connection with websites that resolve to parking pages with pay-per-click links, which indicates Respondent's bad faith and attempt to use the disputed domain names in order to make disruption on the market and negative impact on the Complainant's business (see section 3.5 of the [WIPO Overview 3.0](#)). Such use of the disputed domain names is commonly perceived as use in bad faith.

These factors lead to a conclusion that the disputed domain names were registered and are being used in bad faith as required by paragraph 4(a)(iii) 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 names <mysodexosavingspaln.com> and <mysodexosavinsplan.com> be transferred to the Complainant.

/Petra Pecar/

Petra Pecar

Sole Panelist

Date: June 24, 2022