

ADMINISTRATIVE PANEL DECISION

Sodexo v. Host Master, Transure Enterprise Ltd
Case No. D2022-3596

1. The Parties

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

The Respondent is Host Master, Transure Enterprise Ltd, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <sodexobrc.com> is registered with Above.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 28, 2022. On September 29, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 3, 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 October 4, 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 October 5, 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 the Respondent of the Complaint, and the proceedings commenced on October 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 15, 2022.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on November 22, 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 the French company Sodexo (previously called Sodexo Alliance), founded in 1966 and one of the largest companies in the world specialized in foodservices and facilities management, with 412,000 employees in 56 countries.

The Complainant owns several trademark registrations in multiple jurisdictions for the trademarks SODEXO and SODEXHO, including the following:

- International Registration No. 964615 registered on January 8, 2008 for the mark SODEXO (and design), protected in several countries including the United States;
- International Registration No. 1240316 registered on October 23, 2014 for the mark SODEXO;
- International Registration No. 689106 registered on January 28, 1998 for the mark SODEXHO (and design);
- European Union Trademark No. 006104657 for the mark SODEXO (and design); filed on July 16, 2007 and registered on June 27, 2008.

The Complainant is also the owner of many different domain names comprising SODEXO and SODEXHO, such as <sodexo.com>, <sodexho.com>, <sodexousa.com>, and <sodexo.fr>, among others.

The disputed domain name was registered on September 24, 2022, and, after displaying a security warning in connection to a malicious website, it resolves to a "Flowsurf" website. "Flowsurf" has been identified as spyware (as evidenced in the Complaint).

5. Parties' Contentions

A. Complainant

The Complainant argues that the Respondent registered the disputed domain name incorporating the SODEXO mark in its entirety with the addition of the letters "brc", which correspond to a food certification.

According to the Complainant, the mark SODEXO keeps its individuality and is clearly perceived by consumers as the predominant part of the disputed domain name and, therefore, it is likely to cause confusion among the public.

The Complainant also says that the Respondent registered the disputed domain name and is using it to point to a page connecting to a malicious site and that following an alert of the antivirus software installed on the computer, the disputed domain name connects to Flowsurf website.

The Complainant alleges that the Respondent has no rights nor legitimate interests in the disputed domain name and that it has no license or authorization, as well as no relationship with the Complainant.

Furthermore, the Complainant mentions that the Respondent is not commonly known by the disputed domain name.

According to the Complainant, due to the well-known reputation of its mark SODEXO, the Respondent undoubtedly knew of its existence when registered the disputed domain name, which was done with the purpose of harming and/or achieving commercial gain.

The Complainant informs that the Respondent was involved in 195 domain name disputes, most of them having ordered the transfer of the domain names it registered which were reproducing marks owned by third parties.

Finally, the Complainant argues that the use of Complainant's trademark SODEXO for a disputed domain name that resolves to a malicious website or page constitutes evidence of Respondent's bad faith and concludes requesting the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

As per paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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 evidence presented demonstrates that the Complainant is the owner of several trademark registrations for SODEXO in different countries.

The disputed domain name incorporates the Complainant's trademark in its entirety. The addition of the letters "brc" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark. As numerous prior UDRP panels have recognized, the incorporation of a trademark in its entirety or a dominant feature of a trademark is normally sufficient to establish that a domain name is identical or confusingly similar to the complainant's mark. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, *i.e.*, the disputed domain name is confusingly similar to the Complainant's trademark.

B. Rights or Legitimate Interests

The Respondent has not submitted a response to the Complaint.

There is no evidence that the Respondent has any authorization to use the Complainant's trademark or to register domain names containing the trademark SODEXO.

There is no evidence that the Respondent is commonly known by the disputed domain name.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or that before any notice of the dispute the Respondent has made use of, or demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services. Instead, there is evidence that after displaying a security warning in connection to a malicious website, the disputed domain name resolves to a "Flowsurf" website. The Complainant has provided evidence that indicate that "Flowsurf" may be spyware. The Panel finds that the use of the disputed domain name for illegal activity, such as distributing malware, does not confer rights or legitimate interests on the Respondent (see section 2.13.1 of the [WIPO Overview 3.0](#)).

Furthermore, the composition of the disputed domain name carries a risk of implied affiliation (see section 2.5.1 of the [WIPO Overview 3.0](#)).

Therefore, the Panel finds that the use of the disputed domain name, which incorporates the Complainant's trademark, does not correspond to a *bona fide* use of domain names under the Policy.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The trademark SODEXO is registered by the Complainant in several jurisdictions, including the United States, and has been used for a long time.

The disputed domain name comprises the trademark SODEXO in its entirety in addition to the letters "brc", which can be interpreted as corresponding to the British Retail Consortium (BRC) food certification.

The Complainant's SODEXO mark is indeed distinctive and widely well-known. The mere registration of a domain name that is identical or confusingly similar to a well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see section 3.1.4 of the [WIPO Overview 3.0](#)). Furthermore, the composition of the disputed domain name consisting of the Complainant's trademark plus the letters "brc", which seems to correspond to a food certification, and the fact that the Respondent had already been involved in numerous domain name disputes further reinforces the presumption of bad faith in this case.

It is clear that at the time of registration of the disputed domain name the Respondent was aware of the Complainant's fame and notoriety and registered it in bad faith to take unfair advantage of the Complainant's trademark.

Furthermore, the use of a domain name for purposes other than to host a website (including phishing, or malware distribution), constitutes bad faith (see section 3.4 of the [WIPO Overview 3.0](#)).

Moreover, the Respondent has chosen not to respond to the Complainant's allegations. According to the panel's decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#), "the failure of the Respondent to respond to the Complaint further supports an inference of bad faith".

Therefore, this Panel finds that the Respondent has intentionally attempted to cause confusion with the Complainant's trademark by misleading Internet users to believe that its website belongs to or is associated with the Complainant.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain name has been registered and is being used 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, <sodexobrc.com>, be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: December 6, 2022