

ADMINISTRATIVE PANEL DECISION

SODEXO v. 蒋红群 (hongqun jiang)
Case No. D2022-3927

1. The Parties

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

The Respondent is 蒋红群 (hongqun jiang), China.

2. The Domain Name and Registrar

The disputed domain name <sodexso.com> is registered with West263 International Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 19, 2022. On October 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 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 October 24, 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 27, 2022.

On October 24, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On the same day, 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 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 November 2, 2022. In accordance with the Rules,

paragraph 5, the due date for Response was November 22, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 24, 2022.

The Center appointed Joseph Simone as the sole panelist in this matter on November 29, 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 extended to United Kingdom, registered on October 23, 2014.

The disputed domain name was registered on May 4, 2022.

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

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 mark.

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 able to communicate in Chinese and therefore, if the Complainant should submit all documents in Chinese, the arbitration proceedings will be unduly delayed and the Complainant would have to incur substantial expenses for translation.
- The disputed domain name is registered in Latin script, rather than Chinese characters.

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.

Section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") makes clear that a domain name which consists of a common, obvious, or intentional misspelling of a trade mark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. The Panel considers that the disputed domain name is an obvious misspelling of the Complainant's trade mark as it adds one more alphabet "s" but is otherwise identical to the Complainant's trade mark.

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 mark 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 establish a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such *prima facie* case is made out, the respondent bears 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 3.0](#)", section 2.1.

The Complainant asserts that it has not authorized the Respondent to use its trade 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.

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

The Respondent did not file a response and has thus failed to assert factors or put forth evidence to establish that it enjoys rights or legitimate interests in the disputed domain name. As such, the Panel concludes that the Respondent has 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 is applicable in this case.

At the time of filing of the Complaint, the disputed domain name resolved to a website with pornographic content. It still resolves to the same pornographic content at the time of drafting this decision.

Therefore, there is no evidence on record to prove that the Respondent, prior to the notice of the dispute, has used or has demonstrated his preparation to use the disputed domain name in connection with a *bona fide* offering of goods or services. There is also no evidence demonstrating that the Respondent has been commonly known by the disputed domain name or that the Respondent is making legitimate noncommercial or fair use of the disputed domain name.

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, may constitute 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 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 explanations for evidence to justify his choice of the term "sodexo" in the disputed domain name.

Based on the foregoing, it would be unreasonable to conclude that the Respondent – at the time of the registration of the disputed domain name – was unaware of the Complainant's trade mark, or that the Respondent's adoption of the distinctive trade mark SODEXO was a mere coincidence.

The Complainant's registered trade mark rights in SODEXO for its products and services predate the registration date of the disputed domain name. A simple online search (e.g., via Google and Baidu) for 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.

The use of a domain name to tarnish a complainant's trademark, including for commercial purposes in connection with pornographic content, constitutes evidence of a respondent's bad faith. [WIPO Overview 3.0](#), section 3.12. See *Red Bull GmbH v. Whois Agent, Domain Protection Services, Inc. / esco escortlar, escort sitesi*, WIPO Case No. [D2017-1639](#) (finding the respondent's use of the domain for a pornographic website constituted "a strong indication of bad faith registration and use," because it showed respondent's main purpose was "to create a likelihood of confusion among customers and/or to tarnish the Complainant's RED BULL trademark for commercial gain or any other illegitimate benefit"); *Bank of Jerusalem Ltd. v. Shek Cheung Chung*, WIPO Case No. [D2017-1153](#) (finding bad faith where the domain resolved to a website "at which adult content and links to websites at which pornographic contact [was] being offered, tarnishing Complainant and its trademark, and for which Respondent [was] likely receiving commercial gain"). Similarly, the Panel finds that the Respondent's use of the disputed domain name to resolve to a Chinese-language website with pornographic content and hyperlinks constitutes intentional tarnishment of the Complainant's SODEXO trademark for commercial gain.

Accordingly, the Panel finds that the disputed domain name was 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 <sodexo.com> be transferred to the Complainant.

/Joseph Simone/

Joseph Simone

Sole Panelist

Date: December 13, 2022