

ADMINISTRATIVE PANEL DECISION

Sodexo v. li jiang
Case No. D2023-0211

1. The Parties

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

The Respondent is li jiang, China.

2. The Domain Names and Registrar

The disputed domain names <mysodeox.com> and <mysodex.com> are registered with Cosmotown, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 17, 2023. On January 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 24, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on January 25, 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 on January 25, 2023.

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 January 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 15, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 22, 2023.

The Center appointed Gökhan Gökçe as the sole panelist in this matter on March 8, 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 and is one of the largest companies in the world, specializing in foodservice and facilities management, with over 422,000 employees in its group, serving 100 million consumers in 53 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 several 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) in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45 protected in the following countries:

Armenia, Australia, Azerbaijan, Bosnia and Herzegovina, Bahrain, Belarus, Switzerland, China, Algeria, Egypt, European Union, Islamic republic of Iran, Iceland, Israel, Japan, Kyrgyzstan, Democratic People's Republic of Korea, Republic of Korea, Kazakhstan, Lesotho, Morocco, Monaco, Republic of Moldova, Montenegro, Mongolia, Republic of Namibia, Norway, Serbia, Russian Federation, Singapore, Türkiye, Ukraine, United States of America, Uzbekistan and Viet Nam.

- International Trademark Registration No.1240316, registered on October 23, 2014, for SODEXO (word) in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45;
- International Trademark Registration No. 689106, registered on January 28, 1998, for SODEXHO (word and device) in classes 16, 36, 37, 39, 41, and 42;
- International Trademark Registration No. 694302, registered on June 22, 1998, for SODEXHO (word and device) in class 9; and
- European Union Trademark for Registration No. 008346462, registered on February 01, 2010, for SODEXO (word) in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.

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 January 13, 2023, and resolved to parking pages with Pay-Per-Click ("PPC") links. At the time this Decision is being prepared the disputed domain names resolve to inactive pages.

5. Parties' Contentions

A. Complainant

The Complainant requests the transfer of the disputed domain names.

The Complainant contends that the disputed domain names <mysodex.com> and <mysodeox.com> are confusingly similar to the SODEXO trademark. The disputed domain name <mysodex.com> incorporates the mark SODEXO almost identically, with the deletion of the last letter "o", and adding the word "my". And the disputed domain name <mysodeox.com> also incorporates the mark SODEXO almost identically, with a

switch between the last two letters “x” and “o”, and with the word “my”. The Complainant argues that the only difference is the addition of the descriptive words “my” as a prefix and the deletion of the last letter “o”, and the switch between the last two letters “x” and “o”, which are not sufficient to distinguish it from the Complainant’s SODEXO marks.

The Complainant contends that Respondent does not have any rights or legitimate interests in the disputed domain names. Furthermore, the Complainant states that the Respondent does not have affiliation, association, sponsorship or connection with the Complainant and is not commonly known by the disputed domain names.

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 finally contends that the Respondent is using the disputed domain names to exploit the confusion with the SODEXO trademark to attract Internet users and to incite them to click on commercial links. This is an intentional attempt, for commercial gain, Internet users to the Complainant’s competing websites by creating a likelihood of confusion with the SODEXO trademark.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules requires the Panel to decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the Complainant bears the burden of showing:

- (i) that the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) that the disputed domain names have been registered and are being used in bad faith.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant’s contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See, section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the [WIPO Overview 3.0](#).

A. Identical or Confusingly Similar

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

The disputed domain name <mysodex.com> comprises the SODEXO mark in its entirety. The disputed domain name only differs from the Complainant’s trademarks by the prefix “my”, and the generic Top-Level

Domain (“gTLD”) suffix “.com” to the SODEXO marks with the deletion of the last letter “o”. This does not compromise the recognizability of the Complainant’s marks within the disputed domain name, nor eliminate the confusing similarity between the Complainant’s registered trademarks and the disputed domain name (*Decathlon v. Zheng Jianmeng*, WIPO Case No. [D2019-0234](#)). Misspelling a mark in a domain name such as the deletion of one letter does not prevent the domain name containing that misspelling being confusingly similar to a Complainant’s mark. Deleting a letter “o” does not prevent the disputed domain name from being confusingly similar to the Complainant’s mark.

The disputed domain name <mysodeox.com> incorporates the SODEXO mark almost in its entirety altering the order of two of its letters placed next to each other in the end of the mark (the letters “ox” instead of “xo”), which may be considered a common misspelling not avoiding the direct perception of the mark. The disputed domain name only differs from the Complainant’s trademarks by the prefix “my”, and the gTLD suffix “.com” to the SODEXO marks with the altering of the last letters. It is a common mistake when typing a term to alter the order of some of its letters located next to each other. The SODEXO mark is recognizable in the disputed domain name, and the gTLD “.com” is a technical requirement, generally disregarded for the purpose of the analysis of the confusing similarity.

Accordingly, this Panel finds that the disputed domain names are confusingly similar to the Complainant’s mark, and the first element of the Policy under paragraph 4(a)(i) has been satisfied.

B. Rights or Legitimate Interests

The Panel further finds that the Respondent has failed to demonstrate any rights or legitimate interests in the disputed domain names.

While the burden of proof on this element remains with the complainant, previous UDRP panels have recognized that this would result in the often-impossible task of proving a negative, in particular as the evidence in this regard is often primarily within the knowledge of the respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain names in order to meet the requirements of paragraph 4(a)(ii) of the Policy. See *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

The Panel is satisfied that the Complainant has made a *prima facie* case to demonstrate that the Respondent lacks rights or legitimate interests in the disputed domain names. As contended by the Complainant, the Respondent is not affiliated with the Complainant. Besides, the Respondent has no rights on SODEXO as corporate name, trade name, shop sign, mark or domain name that would be prior to the Complainant’s rights, nor commonly known by the disputed domain names prior to the Complainant’s SODEXO trademark.

Furthermore, the composition of the disputed domain names, almost wholly incorporating the Complainant’s SODEXO trademark and the term “my” cannot constitute fair use in these circumstances as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

Moreover, the disputed domain name <mysodeox.com> incorporates the Complainant’s trademark almost in its entirety with a sole common misspelling (altering two of its letters placed next to each other in the end of the mark, the letters “ox” instead of “xo”) and in the disputed domain name <mysodex.com> the last letter “o” has been deleted from the Complainant’s trademark. The Panel considers that these common misspellings point to an intention to confuse Internet users seeking for or expecting the Complainant.

As a conclusion, the Panel finds that the Complainant has also satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel is convinced that the Respondent was fully aware of the Complainant's trademark when it registered the disputed domain names in January 2023. At the date of registration of the disputed domain names, the Complainant's SODEXO trademark was already globally registered and widely used for many years. Considering the Complainant's assertions, the Complainant's trademark has also been known in China where the Respondent is located. Therefore, the Panel agrees with the Complainant's contention that the SODEXO trademark is so famous that it is impossible for any respondent to claim that he was unaware of SODEXO prior rights. The Panel further notes that the well-known character of the SODEXO mark has been recognized by previous decisions under the Policy. See *Sodexo v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-3132](#), *SODEXO v. Wis INC, Wis INC*, WIPO Case No. [D2020-0887](#).

The Complainant provided evidence of the Respondent's use of the disputed domain names in connection with websites that resolve to parking pages with PPC links, which together with the Respondent's use of typographical variants of the Complainant's trademark in the disputed domain names, indicates the Respondent's bad faith and intention to confuse Internet users and capitalize on the fame of the Complainant's trademark for its own benefit. (see section 3.5 of the [WIPO Overview 3.0](#)).

The fact that at the time of rendering of this decision the disputed domain names did not resolve to active websites does not alter the Panel's findings (see section 3.3 of the [WIPO Overview 3.0](#)).

The Respondent has been the respondent in another prior UDRP case filed by the Complainant and concerning the same trademark, and the Panel found against the Respondent in similar circumstances as in the present case. (*Sodexo v. Li Jiang*, WIPO Case No. [D2022-3852](#)). This is an additional indication of bad faith.

Therefore, considering the above-mentioned circumstances, in the present case, the Panel finds that the disputed domain names have been registered and are being used in bad faith and that the Complainant has established the third element under 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, <mysodeox.com> and <mysodex.com>, be transferred to the Complainant.

/Gökhan Gökçe/

Gökhan Gökçe

Sole Panelist

Date: March 22, 2023