

## **ADMINISTRATIVE PANEL DECISION**

Sodexo v. Host Master, Transure Enterprise Ltd  
Case No. D2022-1140

### **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 <sodexbrs.com> (the “Domain Name”) 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 April 1, 2022. On April 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 7, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the 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 7, 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 12, 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 April 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 3, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 4, 2022.

The Center appointed Gregor Vos as the sole panelist in this matter on May 20, 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 well known French company, active in the field of foodservices and facility management, and serves consumers around the world.

The Complainant is the owner of *inter alia* the following trademark registrations (hereinafter referred to as: the "Trademarks"):

- International registration No. 964615 for *sodexo*<sup>\*</sup> registered on January 8, 2008, with designation of *inter alia* the European Union, Japan, and the United States;
- European Union registration No. 008346462 for SODEXO, registered on February 1, 2010; and
- International registration No. 1240316 for SODEXO, registered on October 23, 2014, with designation of *inter alia* the United Kingdom.

Further, it is undisputed that the Complainant is the holder of *inter alia* the domain name <sodexo.com>, registered on October 9, 1998, and the domain name <sodexobrs.com>, registered on August 14, 2013.

The Domain Name was registered on March 4, 2022, and currently resolves to a parking page which shows pay-per-click ("PPC") advertising links that redirect to other webpages.

#### 5. Parties' Contentions

##### A. Complainant

With the Complaint, the Complainant seeks that the Domain Name is transferred to the Complainant. The Complaint is based on the following factual and legal grounds: the Domain Name is identical or confusingly similar to the Trademarks of the Complainant, the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name has been registered and is being used in bad faith.

Firstly, according to the Complainant, the Domain Name is identical or confusingly similar to its well known Trademarks. The Domain Name reproduces the Trademarks almost in their entirety with the mere omission of the letter "o". Further, only the generic Top-Level Domain ("gTLD") ".com" and the letters "brs" are added. Therefore, by registering the Domain Name, the Respondent has created a confusing similarity with the Complainant's Trademarks in that it could mislead Internet users into thinking that it is in some way associated with the Complainant. This risk of confusion is reinforced by the fact that the Complainant is the owner of and uses the almost identical domain name <sodexobrs.com> in which the element "brs" means "Benefits and Rewards Services".

Secondly, according to the Complainant, the Respondent has no rights or legitimate interests in the Domain Name. The Respondent has never received any form of authorization from the Complainant to use the Trademarks and is not commonly known under the name "SODEXO" nor under the name "sodexbrs".

Finally, according to the Complainant, the Respondent has registered and is using the Domain Name in bad faith. In light of the well known character of the Complainant's Trademarks, the Respondent most likely registered the Domain Name with knowledge of the Complainant and its Trademarks. This is confirmed by the composition of the Domain Name, that almost identically reproduces the Complainant's Trademarks with the addition of the element "brs" that is also used by the Complainant. Also, according to the Complainant,

by registering and using the Domain Name, the Respondent intentionally attempts to attract, for commercial gain, Internet users to its website. Furthermore, the Respondent has been involved in many UDRP cases in which trademarks owned by third parties have been reproduced which led to the transfer of the domain names at issue.

## **B. Respondent**

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

## **6. Discussion and Findings**

In view of the lack of a response filed by the Respondent as required under paragraph 5 of the Rules, this proceeding has proceeded by way of default. Hence, under paragraphs 5(f), 14(a), and 15(a) of the Rules, the Panel is directed to decide this administrative proceeding on the basis of the Complainant's undisputed factual presentations.

For the Complainant to succeed, it must prove, within the meaning of paragraph 4(a) of the Policy and on the balance of probabilities that:

- i. the Domain Name is identical or confusingly similar to a trademark or a service mark in which the Complainant has rights;
- ii. the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- iii. the Domain Name has been registered and is being used in bad faith.

Only if all three elements have been fulfilled, the Panel is able to grant the remedy requested by the Complainant. The Panel will deal with each of the requirements in turn.

### **A. Identical or Confusingly Similar**

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the Domain Name is (i) identical or confusingly similar to a trademark or service mark, (ii) in which the Complainant has rights.

With respect to having rights pursuant to paragraph 4(a)(i) of the Policy, it is noted that the Complainant is registered as the owner of the trademarks SODEXO. Consequently, the Panel finds that the Complainant has proven that it has rights in the Trademarks.

With regard to the assessment of identity or confusing similarity of the Domain Name with the Trademarks, it is generally accepted that this test involves a reasoned but relatively straightforward comparison between the Complainant's Trademarks and the Domain Name (see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark (see section 1.7 of the [WIPO Overview 3.0](#)).

In the present case, the Trademarks are clearly recognizable within the Domain Name. The addition of the gTLD ".com", the omission of the letter "o", and the addition of the letters "brs" do not prevent a finding of confusing similarity with the Trademarks (see sections 1.9 and 1.11.1 of the [WIPO Overview 3.0](#)). Consequently, the Panel finds that the requirement under paragraph 4(a)(i) of the Policy has been satisfied.

## **B. Rights or Legitimate Interests**

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the Domain Name. The *onus* of proving this requirement, like each element, falls on the Complainant. Given the difficulty in proving a negative, however, it is usually sufficient for a complainant to make out a *prima facie* case that a respondent lacks rights or legitimate interests. If the complainant does establish a *prima facie* case, the burden of production shifts to the respondent (see, e.g., [WIPO Overview 3.0](#), section 2.1; *Sanofi v. Cimpress Schweiz GmbH*, WIPO Case No. [D2017-0522](#)).

Paragraph 4(c) of the Policy lists three non-limitative examples of instances in which a respondent may establish rights or legitimate interests in the disputed domain name.

The Complainant has substantiated that none of these circumstances apply in this case. By defaulting, the Respondent has failed to rebut the *prima facie* case established by the Complainant. Furthermore, based on the record before it, the Panel does not see an indication that any of the circumstances of paragraph 4(c) of the Policy is present. The Domain Name is constructed of the Complainant's Trademarks almost in their entirety, save for the omitted "o", and resolves to a PPC page with links of a commercial nature, evidencing the Respondent's intent to capitalize on the misdirection caused by the confusingly similar Domain Name.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name. Paragraph 4(a)(ii) is thereby fulfilled.

## **C. Registered and Used in Bad Faith**

Under paragraph 4(a)(iii) of the Policy, a complainant must show that the disputed domain name has been registered and is being used in bad faith. Paragraph 4(b) of the Policy lists four non-limitative circumstances which may be considered as evidence of registration and use in bad faith of a domain name.

In the present case, the Trademarks are registered by the Complainant and have been used for many years. The Complainant's rights to the Trademarks predate the registration date of the Domain Name. In light of the well known character of the Trademarks, the Panel agrees with the Complainant that it is not conceivable that the Respondent chose the Domain Name without knowledge of the Complainant's activities and its Trademarks under which the Complainant is doing business. The well known character of the Trademarks of the Complainant has been confirmed by earlier UDRP panels (see e.g., *Sodexo v. Contact Privacy Inc. Customer 1247228940 / James Lehman*, WIPO Case No. [D2020-1281](#); *Sodexo v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1580](#)).

Further, the Panel has found that the Respondent lacks any rights to or legitimate interests in the Domain Name and finds that the Respondent is taking unfair advantage of the Domain Name by diverting Internet users to a PPC site that includes links of a commercial nature. Therefore, the Panel finds from the present circumstances that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's Trademarks as to the source, sponsorship, affiliation or endorsement (see e.g., *"Dr. Martens" International Trading GmbH / "Dr. Maertens" Marketing GmbH v. Joan Mitchell*, WIPO Case No. [D2018-0226](#)). Further, the fact that the Domain Name is almost identical to the Complainant's domain name <sodexobrs.com> indicates that the Respondent has registered the Domain Name in bad faith and in full recognition of the Complainant's rights.

In addition, the Complainant has produced a list which contains numerous UDRP cases in which the Respondent had registered a domain name and in which case a UPRP panel ordered the transfer of the domain name at issue. In the Panel's opinion, this list demonstrates that Respondent has engaged in a pattern of registering domain names in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, and that the registration of the domain names was in bad faith. This pattern of bad faith registrations by the Respondent has been confirmed by earlier UDRP panels (see e.g., *Crédit Industriel et Commercial S.A. v. Above\_Privacy / Host Master, Transure Enterprise*

*Ltd*, WIPO Case No. [D2021-3969](#); *Government Employees Insurance Company ("GEICO") v. Host Master, Transure Enterprise Ltd*, WIPO Case No. [D2021-3148](#); *Skyscanner Limited v. Host Master, Transure Enterprise Ltd*, WIPO Case No. [D2021-1948](#)).

Accordingly, the Panel finds that the Domain Name has been registered and is being used in bad faith and that the third element of paragraph 4(a) of the Policy is fulfilled.

## **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 Domain Name, <sodexbrs.com>, be transferred to the Complainant.

*/Gregor Vos/*

**Gregor Vos**

Sole Panelist

Date: June 3, 2022