

ADMINISTRATIVE PANEL DECISION

Sodexo v. ALEX HAMILTON

Case No. D2024-3982

1. The Parties

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

The Respondent is ALEX HAMILTON, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <sodexopas.com> (the “Disputed Domain Name”) is registered with CloudFlare, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 27, 2024. On September 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On October 1, 2024, 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 (DATA REDACTED) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 2, 2024, 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 3, 2024.

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 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 25, 2024.


The Center appointed Flip Jan Claude Petillion as the sole panelist in this matter on November 1, 2024. 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, is a French company specialized in food services and facilities management. The Complainant employs 430,000 persons and serves 80 million consumers daily in 45 countries.

The Complainant is the owner of several trademarks including the following:

- SODEXO, international word mark n° 1240316 registered on October 23, 2014, in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45;

-  international figurative mark n° 964615 registered on January 8, 2008, in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45 and covering several countries including the United States:

The Complainant is the owner of several domain names including the following: <sodexo.com>.

The Disputed Domain Name was registered on July 1, 2024. The Disputed Domain Name does not resolve to an active webpage.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

Notably, the Complainant contends that the Disputed Domain Name is confusingly similar to a trademark in which it claims to have rights.

The Complainant further claims that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name as:

- the Respondent is unknown to the Complainant;
- the Respondent has no rights on SODEXO or SODEXHO as corporate name, trade name, shop sign, mark or domain name that would be prior to the Complainant's rights;
- the Respondent was not commonly known by the Disputed Domain Name prior to the adoption and use by the Complainant of the corporate name, business name and mark SODEXO / SODEXHO;
- 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 to register the Disputed Domain Name and to use it.

Finally, the Complainant claims that the Disputed Domain Name was registered and is being used in bad faith. According to the Complainant:

- the sign SODEXO is purely fanciful and nobody could legitimately choose this word or any variation thereof unless seeking to create an association with the Complainant's activities and mark SODEXO;
- given the well-known character and reputation of the SODEXO / SODEXHO mark, the Respondent knew of this mark when it registered the Disputed Domain Name and knew that it had no rights or legitimate interests in the Disputed Domain Name;

- the Respondent registered the Disputed Domain Name for the purpose of creating confusion with the Complainant's mark to divert or mislead third parties for the Respondent's illegitimate profit;
- given the circumstances of the case, a passive holding of a domain name does not prevent a finding of bad faith;
- the unauthorized registration of the Disputed Domain Name by the Respondent and its passive holding, likely in the aim of fraudulent uses, are for the purpose of commercial gain and thus constitute bad faith registration and use.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Disputed Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel observes that the entirety of the SODEXO trademark is reproduced within the Disputed Domain Name. In such cases, the domain name will normally be considered confusingly similar to the incorporated mark for purposes of UDRP standing. [WIPO Overview 3.0](#), section 1.7.

Additionally, the Panel finds that the addition of a term – here, “pas” – does not prevent a finding of confusing similarity between the Disputed Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

It is well established that generic Top-Level-Domains (“gTLDs”), here “.com”, may be disregarded when considering whether the Disputed Domain Name is confusingly similar to a trademark in which the Complainant has rights.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name such as those enumerated in the Policy or otherwise.

The Panel notes that the Respondent has not apparently been commonly known by the Disputed Domain Name, and that the Respondent does not seem to have acquired trademark or service mark rights. According to the information provided by the Registrar, the Respondent is "ALEX HAMILTON". The Respondent's use and registration of the Disputed Domain Name was not authorized by the Complainant.

Fundamentally, a respondent's use of a domain name will not be considered "fair" if it falsely suggests affiliation with the trademark owner. The correlation between a domain name and the complainant's mark is often central to this inquiry. Even where a domain name consists of a trademark plus an additional term, such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

The Disputed Domain Name incorporates the Complainant's SODEXO trademark in its entirety and merely adds the term "pas". In the Panel's view, this term can be linked to the Complainant. Indeed, the Complainant has shown substantial use of a very similar term "pass" in combination with its SODEXO trademark until 2023, relating to its employee benefit and reward services. The term "pass" was associated with the Complainant's cards and vouchers, and was also included in company and business names of subsidiaries of the Complainant. Therefore, even though the employee benefit and reward services business was recently spun off from the Complainant, the Panel finds that the Disputed Domain Name still carries a risk of implied affiliation with the Complainant and cannot constitute fair use.

Beyond looking at the domain name and the nature of any additional terms appended to it, UDRP panels assess whether the overall facts and circumstances of the case, and the absence of a response, support a fair use or not. [WIPO Overview 3.0](#), sections 2.5.2 and 2.5.3.

The Panel observes that the Disputed Domain Name does not resolve to an active webpage. In the Panel's view, this does not amount to any legitimate noncommercial or fair use or use in connection with a bona fide offering of goods and services.

The Respondent had the opportunity to demonstrate his rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the prima facie case established by the Complainant has not been rebutted.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Panel finds that the following circumstances serve as indication of bad faith registration and use:

- the Disputed Domain Name incorporates the Complainant's distinctive trademark in its entirety, and combines it with a term that can be linked to the Complainant's employee benefit and reward services business operated until 2023;
- some of the Complainant's trademarks predate the registration of the Disputed Domain Name by more than 15 years;
- the Respondent did not take part in the administrative proceedings.

Given the totality of the circumstances discussed above, the fact that the Disputed Domain Name resolves to an inactive webpage, would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

Based on the available record, the Panel finds that the Complainant has established the third element 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 Name <sodexopas.com> be transferred to the Complainant.

/Flip Jan Claude Petillion/

Flip Jan Claude Petillion

Sole Panelist

Date: November 14, 2024