

ADMINISTRATIVE PANEL DECISION

SODEXO v. Samuel Chan
Case No. D2024-4209

1. The Parties

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

Respondent is Samuel Chan, Hong Kong, China.

2. The Domain Names and Registrar

The disputed domain names <sodexo-magic.com> and <sodexostoredvalueservices.com> are registered with NameCheap, Inc. ("Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 11, 2024. On October 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 14, 2024, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on October 17, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on October 18, 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 Respondent of the Complaint, and the proceedings commenced on October 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 10, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on November 13, 2024.

The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on November 20, 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

Complainant is a French company, founded in 1966, known globally for their specialization in food services and facilities management, with a presence in over 40 countries.

Complainant is owner of numerous registrations throughout the world for the SODEXO trademark, and also operates numerous domain names containing said trademark such as <sodexo.com>, <sodexomagic.com>, and <cn.sodexo.com>.

Some examples of Complainant's trademarks registrations for SODEXO can be found below:

Registration	Trademark	Jurisdictions	International Class	Registration Date
300997516		Hong Kong	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45	November 21, 2007
964615		International	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45	January 8, 2008
1240316	SODEXO	International	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45	October 23, 2014
008346462	SODEXO	European Union	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45	February 1, 2010
006104657		European Union	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45	June 27, 2008

The disputed domain names were registered on October 9, 2024, and resolve to (i) a website that offer services of stored value solutions, such as gift cards, hosted at <sodexostoredvalueservices.com>; and (ii) a webpage that proposes job offers, hosted at <sodexo-magic.com>.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Complainant argues that the disputed domain names are confusingly similar to the trademark SODEXO, so much so that the disputed domain names will be perceived as official websites linked to Complainant's business.

Complainant argues that the disputed domain name <sodexostoredvalueservices.com> is especially confusing since the offering of stored value services, such as gift cards, is one of the main services that Complainant is famous for. In this sense, according to Complainant, the words "stored value services" are not enough to distinguish it from the SODEXO trademark.

Other than that, regarding the disputed domain name <sodexo-magic.com>, Complainant states that SODEXO is perceived as the predominant part of the disputed domain name and that it will be perceived by

the public as being connected to Complainant, noting the similarity to Complainant's own <sodexomagic.com> domain name.

Therefore, according to Complainant, the disputed domain names are confusingly similar with Complainant's trademark SODEXO, fulfilling paragraph 4(a)(i) of the Policy and paragraphs 3(b)(viii) and (b)(ix)(1) of the Rules.

Moreover, Complainant contends that Respondent is unknown to Complainant and that no business or activities are conducted between them.

Additionally, Complainant states that no license or authorization has been given for the use of the trademark SODEXO or for the registration of the disputed domain names by Respondent. In sum, according to Complainant, Respondent has no rights nor legitimate interests in the disputed domain names.

In this manner, Complainant states that no legitimate use of the disputed domain names could be reasonably claimed by Respondent, thus paragraph 4(a)(ii) of the Policy has been fulfilled.

Complainant asserts that their business and the trademark SODEXO are well-known worldwide, considering the company's worldwide presence. Complainant further notes that the sign SODEXO is purely fanciful and could not be chosen spontaneously.

Consequently, Complainant pledges that Respondent was necessarily aware of Complainant's worldwide reputation when registering the disputed domain names; and that Respondent intentionally tried to create confusion with Complainant's rights and reputation to attract Internet users to their websites to obtain undue commercial gain.

Complainant contends that the intentions of Respondent's registrations are clearly to obtain undue commercial advantage. On its website linked to the disputed domain name <sodexostoredvalueservices.com>, Respondent would propose stored value solutions, and on its website linked to the disputed domain name <sodexo-magic.com>, Respondent would propose job opportunities. Thus, in Complainant's understanding, Respondent leads consumers to believe that they were accessing websites officially linked with Complainant to obtain commercial gain.

Also, Complainant highlights that this is not the first time Respondent is involved in a domain name dispute, since Respondent was involved in *E.A. Sween Company v. Samuel Chan*, WIPO Case No. [D2024-2959](#), in which the decision was of transferring the domain name to the Complainant at the occasion.

Thus, according to Complainant, the requirements for the identification of a bad faith registration and use of the disputed domain names have been fulfilled, pursuant to paragraph 4(a)(iii) of the Policy.

Accordingly, Complainant requests transfer of the disputed domain names to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

To succeed in a UDRP complaint, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) 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.

The burden of proving these elements is upon Complainant.

Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the complaint, in the absence of exceptional circumstances, the panel's decision shall be based upon the complaint.

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 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 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 entirety of the trademark SODEXO is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds that the disputed domain name <sodexo-magic.com> is confusingly similar to Complainant's trademark SODEXO, with the sole addition of the term "-magic", which by itself is not sufficient to prevent a finding of confusing similarity between this disputed domain name and Complainant's trademark. [WIPO Overview 3.0](#), section 1.8.

The Panel also notes that the disputed domain name <sodexostoredvalueservices.com> incorporates Complainant's trademark SODEXO in its entirety, with the addition of the expression "storedvalueservices". The addition of the referred expression, which has a relation to Complainant's services, does not prevent a finding of confusing similarity between this disputed domain name and Complainant's registered trademark. [WIPO Overview 3.0](#), section 1.8.

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 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 that Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain names. Respondent has not rebutted 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 Complainant argues that Respondent is using the disputed domain names to create confusion among Internet users and create the impression that Respondent's website is affiliated with or endorsed by Complainant. Respondent has failed to refute said claim. Moreover, the composition of the disputed domain names by itself carries a risk of implied affiliation to Complainant, and as such, cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, Respondent is not entitled to any trademark, trade name, or any other right associated with the disputed domain name. Additionally, Respondent has not been authorized by Complainant to use the SODEXO trademark, and there is no commercial relationship between the Parties. Respondent is not recognized by the disputed domain names, and the Panel notes that the disputed domain names resolve to websites in which Respondent presents himself as Complainant or at least as a company linked to Complainant. In light of these circumstances, the Panel finds that no rights or legitimate interests can be found on behalf of Respondent.

Also, Panels have held that the use of a domain name for illegitimate activity (e.g., impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

In the present case, the Panel notes that Respondent has registered disputed domain names that are confusingly similar to Complainant's trademark SODEXO, as explained above in 6.A. Also, based on the available record, Respondent has no affiliation with Complainants and the trademark SODEXO, nor has it sought authorization or a license to utilize the referred trademarks. Respondent also does not own any trademarks containing the term SODEXO or any relating terms.

Furthermore, considering Complainant's significant worldwide reputation in connection with food services and facilities management, Respondent evidently knew or should have known of the existence of Complainant's prior trademark rights and domain names, which were matters of public record, before registering the disputed domain names. Thus, Respondent must have had knowledge of Complainant's pre-existing rights in the SODEXO trademark.

It may be inferred that the registration of the disputed domain name was intentionally done with the aim of profiting from the reputation of Complainant's trademarks in question, considering Respondent's use of the disputed domain names, falsely suggesting an association with Complainant. Moreover, the choice of the disputed domain name <sodexo-magic.com>, being nearly identical to Complainant's <sodexomagic.com> domain name, further suggests knowledge of the Complainant and an intent to take advantage of the Complainant's trademarks.

On the website which resolves from the disputed domain name <sodexostoredvalueservices.com>, Respondent allegedly offers services alike to the ones offered in Complainant's business while showcasing the SODEXO trademark in the website. On the website linked to the disputed domain name <sodexo-magic.com>, Respondent allegedly offers career opportunities while also showcasing the trademark SODEXO in the website content.

The Panel understands that the use practiced by Respondent in both disputed domain names, according to evidence brought by Complainant, indicates Respondent's intention to impersonate Complainant's SODEXO business to try to obtain undue commercial advantage via the provocation of a confusing similarity.

Panels have held that the use of a domain name for illegitimate activity (e.g., impersonation/passing off, or other types of fraud), constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

In this sense, the Panel concluded in the recent *BPP Holdings Limited v. Robyn Joanne Makin*, WIPO Case No. [D2024-2112](#), that impersonating a complainant indicates the respondents bad faith:

"6.13 Exactly why the Respondent has engaged in this false impersonation is not clear. However, regardless of the reasons why this has been done, deliberately registering a domain name that impersonates a trade mark holder with the intention of operating a website that falsely impersonates a trade mark holder, is registration and use of a domain name in bad faith."

The Panel finds that the circumstances of the present case allow for a finding of bad faith in the registration and use of the disputed domain names, considering that (i) composition of the confusingly similar disputed domain names; and (ii) Respondent's use of the websites under the disputed domain names, aimed to create a likelihood of confusion within Internet users to suggest an affiliation with Complainant.

Lastly, the Panel finds it is relevant that Respondent has not provided any evidence of good faith registration or use, or otherwise participated in this dispute.

Based on the available record, the Panel finds that 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 names <sodexo-magic.com> and <sodexostoredvalueservices.com> be transferred to Complainant.

/Gabriel F. Leonardos/

Gabriel F. Leonardos

Sole Panelist

Date: December 4, 2024