

ADMINISTRATIVE PANEL DECISION

Sodexo v. 罗松涛

Case No. DCN2023-0064

1. The Parties

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

The Respondent is 罗松涛, China.

2. The Domain Name and Registrar

The disputed domain name <sodexhopass.cn> is registered with 广东时代互联科技有限公司 (the “Registrar”).

3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 15, 2023. On November 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 20, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center sent an email communication to the Complainant on November 20, 2023, providing the complete registrant and contact information disclosed by the Registrar and the correct Registrar information, and requesting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint in English on November 24, 2023.





The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the China ccTLD Dispute Resolution Policy (the “Policy”), the China ccTLD Dispute Resolution Policy Rules (the “Rules”), and the WIPO Supplemental Rules for China ccTLD Dispute Resolution Policy and China ccTLD Dispute Resolution Policy Rules (the “WIPO Supplemental Rules”).

In accordance with the Rules, Articles 5 and 6, and Articles 14 to 16, and the WIPO Supplemental Rules, Paragraph 4(d), the Center formally notified the Respondent in Chinese and English of the Complaint, and the proceedings commenced on November 28, 2023. In accordance with the Rules, Article 17 and 49, the due date for Response was December 18, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 3, 2024.

The Center appointed Rachel Tan as the sole panelist in this matter on January 8, 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, Article 29.

4. Factual Background

The Complainant, Sodexo, is a French limited company specializing in foodservices and facilities management, with 430,000 employees serving 80 million consumers in 45 countries. Its consolidated revenue reached EUR 22.6 billion for the fiscal year 2023.

The Complainant promoted its business under the SODEXHO trade mark and trade name from 1966 to 2008. It simplified the spelling of Sodexho to Sodexo and changed its logo from  to  in 2008. The Complainant owns a range of trade mark registrations for its SODEXHO and SODEXO marks worldwide, including the relevant Chinese Trade Mark Registration No. 1160675 for SODEXHO registered on March 21, 1998 in class 16; International Trade Mark Registration No. 689106 for  registered on January 28, 1998 which, *inter alia*, designates China in classes 16, 36, 37, 39, 41, and 42; and International Trade Mark Registration No. 964615 for  registered on January 8, 2008 which, *inter alia*, designates China in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.

The Complainant is also the owner of a range of domain names incorporating the SODEXHO or SODEXO mark, including <sodexo.com>, <sodexho.fr>, <sodexho.com>, etc.

The Respondent is 罗松涛, China.

The disputed domain name was registered on November 12, 2023, and does not resolve to any active website.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name wholly reproduces the SODEXHO mark with the word "pass" which is used by the Complainant to identify its vouchers. The additional element "pass" in the disputed domain name is obviously not sufficient to distinguish it from the Complainant's SODEXHO and SODEXO marks.

The Complainant further alleges that the Respondent has no rights nor legitimate interests in the disputed domain name as he 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 on the SODEXHO and SODEXO marks. The Respondent is not commonly known by the disputed domain name. Further, 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.

The Complainant finally asserts that given the well-known character and reputation of the SODEXO and SODEXHO marks, the Respondent obviously knew their existence when he registered the disputed domain name. The disputed domain name does not seem to have any active content and such passive holding does not prevent a finding of bad faith.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

According to Article 6 of the Policy and Article 8 of the Rules, unless otherwise agreed by the Parties, or determined in exceptional cases by the Panel, the language of the domain name dispute resolution proceedings shall be Chinese.

The Complainant has filed its Complaint in English and has requested that English be the language for the proceeding under the following grounds:

- (a) the Complainant is not able to communicate in Chinese;
- (b) if the Complainant should submit all documents in Chinese, the proceedings will be unduly delayed, and the Complainant would have to incur substantial expenses for translation; and
- (c) the disputed domain name is registered in Latin script, rather than Chinese characters.

In accordance with Article 31 of the Rules, the Panel shall ensure that each Party be treated with equality and given a fair opportunity to present its case. The Panel shall also ensure that the proceedings take place with due expedition. In accordance with Article 8 of the Rules, the Panel hereby determines that the language of the proceeding shall be in English after considering the following circumstances:

- (a) the Center has notified the Respondent of the proceeding in both English and Chinese;
- (b) the Respondent has not commented on the language of the proceeding; and
- (c) an order for the translation of the Complaint will result in significant expenses for the Complainant and a delay in the proceedings.

6.2 Substantive Issues

A. Identical or Confusingly Similar to the Complainant's Name or Mark in which the Complainant has Civil Rights or Interests

The Panel is satisfied that the Complainant has adduced evidence to demonstrate its established rights in the SODEXO and SODEXHO marks.

The Panel notes that the SODEXHO mark is wholly encompassed within the disputed domain name. The SODEXHO mark is instantly recognizable in the disputed domain name. The Panel also notes that the SODEXO mark is entirely incorporated in the disputed domain name. It is sufficient to establish a confusing similarity between the Complainant's marks and the disputed domain name.

Further, the addition to the complainant's trade mark of other words or terms would not prevent a finding of confusing similarity between the domain name and the complainant's trade mark. As such, the Panel finds the additional term "pass" in the disputed domain name does not preclude a finding of confusing similarity between the SODEXO and SODEXHO marks and the disputed domain name. See *Deutz AG v. 郝晓章*, WIPO Case No. [DCN2021-0042](#).

Lastly, it is permissible for the Panel to disregard the Top-Level Domain in the disputed domain name, *i.e.*, ".cn" when assessing the confusing similarity between the disputed domain name and the Complainant's marks. See *OLT and Olympia Le-Tan IP S.à r.l. v. 何荣财 (herong cai)*, WIPO Case No. [DCN2021-0044](#).

The Complainant has therefore satisfied the first element under Article 8(a) of the Policy.

B. Rights or Legitimate Interests

The Complainant states that the Respondent does not have the trade mark rights to the disputed domain name. The Complainant has not licensed the Respondent in any form to use its trade marks or to register and use a domain name containing its trade marks, and there is no evidence that the Respondent is widely known under the disputed domain name.

Based on the evidence and reasons submitted by the Complainant, the Panel finds that the Complainant has provided *prima facie* evidence that the Respondent has no rights or legitimate interests to the disputed domain name, thus shifting the burden of rebutting the proof to the Respondent, who has not put forth evidence to establish that he enjoys rights or legitimate interests in the disputed domain name. As such, 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 none of the circumstances of Article 10 of the Policy is applicable in this case. Moreover, the composition of the disputed domain name carries a risk of implied affiliation.

Accordingly, the second element of Article 8(b) of the Policy is therefore satisfied.

C. Registered or Used in Bad Faith

The Complainant's SODEXO and SODEXHO marks have been widely registered around the world, including in China. The disputed domain name was registered well after the registration of the Complainant's SODEXO and SODEXHO marks. Through extensive use and advertising, the Complainant's SODEXO and SODEXHO marks are known throughout the world. Moreover, search results using the terms "sodexo" and "sodexho" on the Internet direct Internet users to the Complainant and its business, which indicates that an exclusive connection between the SODEXO and SODEXHO marks and the Complainant has been established. As such, the Respondent either knew or should have known of the Complainant's SODEXO and SODEXHO marks when registering the disputed domain name.

In addition, the Panel finds that although the disputed domain name does not resolve to any website, such inactive use of the disputed domain name in this case would not prevent a finding of bad faith under the doctrine of passive holding. In its determination, the Panel considers the degree of distinctiveness and reputation of the Complainant's SODEXO and SODEXHO marks, as well as the Respondent's failure to respond in the face of the Complainant's allegations of bad faith. See *Guccio Gucci S.p.A. v. 王天义 (Wang Tian Yi)*, WIPO Case No. [DCN2023-0040](#).

The Respondent has kept silent in the face of the Complainant's allegations of bad faith. Taking into account these circumstances, the Panel finds that the Respondent must have known of the Complainant before registering the disputed domain name and, considering the Respondent's lack of rights or legitimate interests, and by continuing to hold the disputed domain name, the Panel is led to conclude that the disputed domain name was registered and is being used in bad faith.

The Complainant has therefore satisfied the third element under Article 8(c) of the Policy.

7. Decision

For the foregoing reasons, in accordance with Articles 14 of the Policy and 40 of the Rules, the Panel orders that the disputed domain name <sodexhopass.cn> be transferred to the Complainant.

/Rachel Tan/

Rachel Tan

Sole Panelist

Date: January 22, 2024