

## **ADMINISTRATIVE PANEL DECISION**

Sodexo v. caihai qing  
Case No. D2022-3889

### **1. The Parties**

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

The Respondent is caihai qing, China.

### **2. The Domain Name and Registrar**

The disputed domain name <sodexonorthamericaportal.com> is registered with Dynadot12 LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 17, 2022. On October 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 19, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on October 28, 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 November 2, 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 November 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 28, 2022.

The Center appointed Harini Narayanswamy as the sole panelist in this matter on December 14, 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 French company in the business of food services and facilities management. The Complainant owns the SODEXO trademark which it has used since 2008 and has a large portfolio of registered marks that include:

- SODEXO (device mark) international trademark registration number 964615, registered on January 8, 2008, and renewed in 2018, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45.
- SODEXO (word mark), international registration number 1240316, registered on October 23, 2014, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45.
- SODEXO (word mark) European Union trademark registration number 008346462, filed on June 8, 2009, registered on February 1, 2010, and renewed in 2019, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.
- SODEXO (device mark) European Union trademark registration number 006104657, filed on July 16, 2007, registered on June 27, 2008, and renewed in 2017, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45.

The disputed domain name was registered on May 26, 2022. The disputed domain name resolves to a website featuring advertisements related to gambling, gaming and pornographic content.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant states it was founded in 1966 and is presently one of the largest in the area of food services and facilities management globally. It was previously known by the name "Sodexho Alliance" and used the trademark SODEXHO. In the year 2008 the Complainant adopted the name "Sodexo", a simpler version of "Sodexho". The Complainant states it has about 412,000 employees worldwide and serves about 100 million customers daily in 56 countries with consolidated revenue crossing EUR 17 billion during the fiscal year 2021.

The Complainant states that its business includes providing on-site catering services, providing benefits and rewards services such as vouchers and cards for private and public organizations in four service categories, these are: (i) employee benefit vouchers, (ii) gift vouchers for incentives, (iii) public benefit vouchers such as managing public subsidies, and (iv) fuel and fleet expense management such as prepaid fuel cards. The Complainant also provides services in the area of personal and home care such as child care, tutoring, adult education, concierge services, and home care for dependent persons.

The Complainant states that apart from owning several registered trademarks in numerous countries, it also has a large number of domain names bearing the SODEXO mark. The Complainant states that its mark is well known in many countries including China, where the Respondent is located. The Complainant contends that it is listed as one of "The [W]orld's Most Admired Companies" by the Fortune Magazine. The Complainant further states that several previous UDRP decisions have recognized that the SODEXO mark is well known and has a world-wide reputation.

The Complainant requests for the transfer of the disputed domain name on the grounds that it is confusingly similar to a trademark in which it has rights, the Respondent lacks rights or legitimate interests in the disputed domain name, and the disputed domain name has been registered and is being used in bad faith by the Respondent.

## B. Respondent

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

## 6. Discussion and Findings

The Complainant needs to successfully establish three elements under paragraph 4(a) of the Policy to obtain transfer of the disputed domain name, these are:

- (i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) The Respondent lacks rights or legitimate interests in the disputed domain name; and
- (iii) The disputed domain name was registered and is being used in bad faith by the Respondent.

### A. Identical or Confusingly Similar

The first element under paragraph 4(a) of the Policy requires the Complainant to establish the disputed domain name is confusingly similar to a trademark or a service mark in which it has rights.

The Complainant has provided evidence of its trademark registration certificates and details of its trademark registrations in numerous countries. It is clear from the evidence, that the Complainant's SODEXO mark is widely used in many countries. Evidence of trademark registration is sufficient to demonstrate the Complainant's rights as required under the first element. See section 1.2.1, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). The Complainant has successfully established its rights in the SODEXO mark in these proceedings.

The Complainant has argued that the disputed domain name is confusingly similar to its mark. The disputed domain name incorporates the Complainant's SODEXO trademark in its entirety with the words "north", "america", and "portal". The Panel finds the trademark is clearly recognizable in the disputed domain name, and the addition of the words "north", "america", and "portal" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's mark. See section 1.8, [WIPO Overview 3.0](#).

The Panel therefore finds that the Complainant has successfully established the first requirement under paragraph 4(a) of the Policy, that the disputed domain name is confusingly similar to a mark in which it has rights.

### B. Rights or Legitimate Interests

The second element under paragraph 4(a) of the Policy requires the Complainant to demonstrate that the Respondent lacks rights or legitimate interests in the disputed domain name. If the Complainant makes a *prima facie* case that the Respondent lacks rights or legitimate interests, the Respondent can rebut the Complainant's allegations with relevant submissions and supporting evidence to establish rights or legitimate interests in the disputed domain name. If the Respondent fails to make relevant submissions with supporting evidence, the Complainant is deemed to have satisfied the second element. See Section 2.1, [WIPO Overview 3.0](#).

The Complainant has submitted that it has not authorized the use of the mark to the Respondent and the Respondent is not commonly known by the disputed domain name. The Complainant has provided evidence that the disputed domain name resolves to a website displaying advertisements related to gambling, gaming and pornographic content and argues that such use does not constitute use in connection with a *bona fide* offering of products as the Respondent seeks to derive unfair mileage and benefit by using its mark to mislead and divert Internet users.

It has been determined in a number of previous decisions that a disputed domain name that consists of a well-known mark that resolves to an online location that displays, offers or promotes gambling and pornographic content is not considered legitimate use of the disputed domain name or a *bona fide* offering of services. See, for instance, *HomeAway.com, Inc. v. LIU DE Bang*, WIPO Case No. [D2020-0320](#), where it was held that a respondent has no rights or legitimate interests in a domain name that uses a known mark for purposes of offering pornography services. It was also held that such use of a domain name does not constitute a *bona fide* offering of services.

The Respondent did not file a response or rebutted the allegations made by the Complainant. Based on the evidence and the given facts and circumstances, the Panel is of the view that the Respondent's unauthorized use of the mark is with an intention to attract Internet users due to the reputation associated with the Complainant's well-known mark. The Respondent is therefore intentionally attracting consumers looking for the Complainant online, and then misleading and diverting Internet users or consumers to other online locations promoting gambling, gaming and pornographic content. The Panel finds that the use of the disputed domain name by the Respondent does not meet the conditions of legitimate or *bona fide* use of the disputed domain name.

Further, the nature of the disputed domain name, which incorporates the Complainant's trademark and adds the term "north america portal" carries a risk of an implied affiliation especially because the Complainant asserts that it owns a website called "Sodexo North America Portal", which it operates for its customers and employees in North America. See section 2.5.1, [WIPO Overview 3.0](#).

The Complainant is found to have successfully put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, which the Respondent has not rebutted. The Panel therefore finds that the Complainant has established the second element under paragraph 4(a) of the Policy.

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

The third element under paragraph 4(a) of the Policy requires the Complainant to establish the disputed domain name has been registered and is being used in bad faith by the Respondent. Bad faith is generally found when the preponderance of facts and circumstances of the case indicates that a respondent has targeted a complainant's mark with a view to derive unfair advantage from use of the mark. See section 3.1, [WIPO Overview 3.0](#).

The Panel finds that the Complainant has established in these proceedings, with sufficient evidence, that the SODEXO mark is widely used and is well known globally. The Panel also notes the Complainant's submission that the mark is not a dictionary word but is an invented word which has become a distinctive identifier of the Complainant and its business.

The Complainant has provided evidence that the Respondent uses the disputed domain name for a site featuring advertisements related to gambling, gaming and pornographic content. The Complainant has argued that this is likely to harm its mark, tarnish its image, and the goodwill and reputation associated with its mark. Relying on the trademark for causing confusion in the minds of the public hence attracting them to the disputed domain name for commercial gain is bad faith.

The Panel finds on the basis of evidence, that the Respondent has registered and used the disputed domain name to derive unfair advantage of the Complainant's mark by attracting Internet users for commercial gain by creating a likelihood of confusion with the Complainant's mark. The Respondent's use of the Complainant's mark in this manner is found to be detrimental to the owner of the mark but also to consumers and the public.

The Policy primarily seeks to protect consumers and Internet users by deterring unauthorized use of a trademark in a domain name that was registered and is being used in bad faith. The use of the Complainant's trademark in the disputed domain name with the intention of deriving unfair advantage from

the reputation and goodwill associated with the Complainant's mark constitutes bad faith registration and use of the disputed domain name as described under paragraph 4(b)(iv) of the Policy, which states:

- (iv) By using the domain name, you (the Respondent) have intentionally attempted to attract, for commercial gain, Internet users to your website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of your (the Respondent's) website or location or of a product or service on your website or location.

The Respondent's registration and use of the disputed domain name in the present case, is squarely covered under the bad faith circumstances indicated in paragraph 4(b)(iv) of the Policy.

The Panel concludes on the basis of the foregoing discussions and findings, that the disputed domain name was registered and is being used with the intention of taking unfair advantage of the Complainant's mark, which is found to be bad faith registration and use the disputed domain name. The Complainant is found to have successfully established the third element under paragraph 4(a) 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 <sodexonorthamericaportal.com> be transferred to the Complainant.

*/Harini Narayanswamy/*

**Harini Narayanswamy**

Sole Panelist

Date: December 28, 2022