

## **ADMINISTRATIVE PANEL DECISION**

### **SOGERES v. Name Redacted**

### **Case No. D2023-0270**

#### **1. The Parties**

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

The Respondent is Name Redacted.<sup>1</sup>

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

The disputed domain name <sas-sogeres.com> is registered with NameCheap, Inc. (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 20, 2023. On January 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 23, 2023, 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 (Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 24, 2023, 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 January 25, 2023.

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”).

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<sup>1</sup> The Respondent appears to have used the name of a former employee of the Complainant when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on January 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 21, 2023.

The Center appointed Elise Dufour as the sole panelist in this matter on February 23, 2023. 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 the French company Sogeres founded in 1934, which is a provider of foodservices and corporate catering services. Sogeres is the fourth largest player in its sector in France and was purchased by SODEXO in 2001, one of the world's leading food management services companies. Sogeres owns over 1300 restaurants and employs 5000 employees.

It operates in three market segments which are:

- Corporate & Administration
- School
- Health/Medical/Social.

The Complainant is the owner of several trademarks for SOGERES, including the following:

- European Union trademark SOGERES, registered on July 21, 2014, under n° 012627261, in international classes 21, 29, 30, 35, 39, 41, 43, 44, and 45;
- French trademark SOGERES, registered on May 28, 1991, under n° 1667699, in international classes 21, 29, 30, 35, 39, 40, 41, 43, 44, and 45, duly renewed;
- French trademark SOGERES, registered on August 9, 2018, under n°4475452, in international classes 29, 30, 35, 41, 43, and 44;

The Complainant also owns several domain names containing SOGERES, including <sogeres.fr>.

The disputed domain name <sas-sogeres.com> was registered on May 17, 2022. The disputed domain name was registered in the name of a privacy service and resolves to a pay-per-click ("PPC") website that offers links to other websites. Indeed, the website to which the disputed domain name resolves contains a parking page to connect to Complainant's competitor's websites and job offers in restaurants.

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

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

The Complainant alleges that the disputed domain name is confusingly similar to its earlier trademarks as it incorporates its earlier trademarks together with the term "SAS" which refers to the legal structure of the Complainant's company.

The Complainant further contends that the Respondent should be considered as having no rights or legitimate interests in the disputed domain name. Indeed, the Respondent reproduces the Complainant's earlier trademarks in the disputed domain name without having been licensed or otherwise permitted. In addition, the Complainant asserts that the Respondent is impersonating a former employee of a group that is affiliated with the Complainant. Such former employee is now retired, and its identity has already been

usurped on several occasions to register different domain names in violation of Complainant's trademarks registrations.

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith. Indeed, the Complainant asserts that the Respondent knew of the existence of the SOGERES trademarks when registering the disputed domain name and has done so in order to create an association and a confusion with the Complainant's activities and trademarks. The Complainant further contends that, in using a pay-per-click website that directs users to competitors' websites, the Respondent tried to achieve commercial gain and such use constitutes bad faith. Finally, the Complainant claims that the impersonating of a former employee of a parent company by the Respondent indicates that the Respondent registered and used the disputed domain name in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

In the absence of a formal Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent.

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (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 has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

The Panel will further analyse the potential concurrence of the above circumstances.

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

The Complainant has provided evidence to establish its rights over the SOGERES trademarks.

The disputed domain name reproduces the Complainant's trademark SOGERES in its entirety, associated with the term "SAS" and separated by a hyphen. The term "SAS" is an abbreviation of letters that refers to the legal structure of the Complainant's company meaning in French "Société par Actions Simplifiée".

The Panel finds that the disputed domain name is confusingly similar to the Complainant's earlier trademark.

Thus, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks and that the requirement of paragraph 4(a)(i) of the Policy is met.

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

Paragraph 4(c) of the Policy provides a nonexclusive list of circumstances that indicate the Respondent's rights to or legitimate interests in the disputed domain name. These circumstances are:

- (i) before any notice of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or

- (ii) the Respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, in spite of not having acquired trademark or service mark rights; or
- (iii) the Respondent is making a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent, in not formally responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights to and/or legitimate interests in the disputed domain name.

This entitles the Panel to draw any such inferences from such default as it considers appropriate pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make a *prima facie* case against the Respondent.

The Panel first considers that the Respondent does not have rights or legitimate interests regarding the disputed domain name. Indeed, the Respondent is not affiliated with it in any way and was never authorized, licensed, or otherwise permitted by the Respondent or any affiliated company to use its trademarks.

In addition, the disputed domain name was registered in the name of a privacy service to protect personal data. During the course of the procedure the identity of the Respondent was revealed. This name coincides with the name of a former employee of the Sodexo group, affiliated with the company of the Complainant, and whose identity had already been usurped on several occasions to register different domain names in violation with the SODEXO trademarks.

The Panel therefore finds that the Complainant has met the requirement under the Policy of showing that the Respondent does not have any rights or legitimate interests in the disputed domain name.

Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

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

The Complainant has submitted evidence that the Respondent most likely knew the existence of the Complainant's trademarks when registering the disputed domain name.

In the absence of contrary evidence, and further to the below, the Panel finds that the Respondent knew of the Complainant's trademark and services at the time the Respondent registered the disputed domain name.

There is no doubt that the Respondent was aware of the Complainant's trademark when it registered the disputed domain name given that the disputed domain name incorporates entirely the Complainant's trademarks. Similarly, the Respondent combined the Complainant's trademarks with the abbreviation "SAS", referring to the Complainant's legal structure, reinforcing the impression that the Respondent sought to specifically target the Complainant.

Moreover, the fact that the Respondent used the name of a former employee of Sodexo, a company that is affiliated with the Complainant's company since 2001 and address corresponding to the Complainant's company are clear indications that the Respondent had the Complainant's trademarks in mind when he registered and used the disputed domain name (See *Sodexo v. Privacy Service Provided by Withheld for Privacy ehf / Name Redacted*, WIPO Case No. [D2022-1436](#)).

Furthermore, the fact that the disputed domain name resolves to a parked page containing links to the Complainant's competitor's websites indicates that the Respondent has registered and is using the disputed domain name in bad faith in order to benefit from the traffic revolving on the website and create confusion with the Complainant's trademarks.

Regarding the use of a pay-per-click parking website, pursuant to previous panel decisions, such circumstance is an indication of bad faith. (See, among others, *L'Oréal, Biotherm, Lancôme Parfums et Beauté & Cie v. Unasi, Inc.* WIPO Case No. [D2005-0623](#) and *Ifscience Limited v. Domains By Proxy LLC / Dr Chauncey Siemens*, WIPO Case No. [D2016-0909](#)).

As a result, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith.

The Panel therefore finds that the Complainant has satisfied the requirement under paragraph 4(a)(iii) 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 <sas-sogeres.com> be transferred to the Complainant.

*/Elise Dufour/*

**Elise Dufour**

Sole Panelist

Date: March 9, 2023