

## **ADMINISTRATIVE PANEL DECISION**

Sodexo v. premform ltd

Case No. D2023-1666

### **1. The Parties**

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

The Respondent is premform ltd, Canada.

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

The disputed domain name <sodsxo.com> is registered with Domain.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 17, 2023. On April 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 17, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 17, 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 April 18, 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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 11, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 12, 2023.

The Center appointed Eva Fiammenghi as the sole panelist in this matter on June 1, 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 one of the largest companies in the world specialized in foodservices and facilities management, with 422 000 employees serving daily 100 million consumers in 53 countries.

SODEXO holds registrations that comprise the word “sodexo” in numerous jurisdictions around the world, including, among others, the following trademark registrations:

- Canadian Trademark registration n° TMA811527 SODEXO and device filed on November 9, 2007 under priority of the French trademark registration no. 073513766 of July 16, 2007, registered on November 9, 2011, in international classes 09, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.
- European Union Trade Marks SODEXO registration nos. 006104657 and 008346462 filed respectively on July 16, 2007, and June 8, 2009, registered respectively on June 27, 2008, and February 1, 2010, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.
- International Trademarks SODEXO registration nos. 964615 and 1240316 registered respectively on January 8, 2008, and October 23, 2014, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.

The International trademarks designate numerous jurisdictions.

The evidence submitted by the Complainant fully establishes that these rights are in effect and owned by the Complainant or its subsidiaries.

The disputed domain name was registered on April 7, 2023.

The Complainant indicates and provides evidence that the disputed domain name resolves to an inactive website.

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

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

The Complainant argues that the in the disputed domain name <sodsxo.com>, the SODEXO trademark is misspelled.

The Complainant argues that the disputed domain name is confusingly similar to its well-known SODEXO trademark as the spelling mistake has replaced the letter E by the letter S and this do not change the optics of “Sodexo”.

The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with the Complainant and there is no evidence to suggest that the Respondent has registered the disputed domain name to advance legitimate interests. The Complainant has never licensed or otherwise permitted the Respondent to use its trademark or to register any domain name including its trademark.

The Complainant further argues that the disputed domain name was registered and is being used in bad faith, within the meaning of paragraph 4(b)(iv) of the Policy.

The Complainant requests that the disputed domain name be transferred to it.

##### **B. Respondent**

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

## 6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must prove 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.

These elements are discussed in turn below. In considering these elements, paragraph 15(a) of the Rules provides that the Panel shall decide the Complaint on the basis of statements and documents submitted and in accordance with the Policy, the Rules and any other rules or principles of law that the Panel deems applicable

### A. Identical or Confusingly Similar

In the present case, the disputed domain name <sodsxo.com> is confusingly similar to the Complainant's registered trademark SODEXO.

The Complainant has shown its own trademark rights in the SODEXO trademark.

The Panel notes that misspellings, such as substitution of a letter, and the addition of a generic Top-Level Domain ("gTLD") do not prevent a domain name from being confusingly similar to a complainant's trademark pursuant to the Policy. As such, the replacement of the letter "e" in the Complainant's trademark with a letter "s" and the addition of the gTLD ".com" do not prevent a finding of confusing similarity in this case.

Accordingly, the Panel finds that the Complainant has satisfied the first requirement that the disputed domain name is identical or confusingly similar to the Complainant's registered trademark, under paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

According to the Policy, paragraph 4(a)(ii), the Complainant must demonstrate that the Respondent has no rights or legitimate interests in the disputed domain name.

There is nothing in the available case file to suggest that the Respondent is in any way affiliated with the Complainant, nor has the Complainant authorized or licensed the Respondent to use its trademarks, or to seek registration of any domain name incorporating its trademarks. Therefore, the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent has not made any submissions or any demonstrations that it has rights or legitimate interests in the disputed domain name.

Past UDRP panels have found that in the absence of any license or permission from the Complainant to use any of its trademarks or to apply for or use any domain name incorporating those trademarks, it is clear that no actual or contemplated *bona fide* or legitimate use of the domain name could be claimed by the Respondent.

The Panel finds no evidence that the Respondent has used or undertaken any demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering goods or services.

Likewise, no evidence has been adduced that the Respondent has been commonly known by the disputed domain name; nor, for the reasons mentioned above, is the Respondent making a legitimate noncommercial or fair use of the disputed domain name.

The Panel concludes, noting that the Respondent lacks any rights or legitimate interests in the disputed domain name, that the second element of the Policy has, therefore, been met.

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

Under paragraph 4(a)(iii) of the Policy, the Complainant must show that the Respondent registered and is using the disputed domain name in bad faith. A non-exhaustive list of factors constituting bad faith registration and use is set out in paragraph 4(b) of the Policy.

The Panel considers that the disputed domain name is a misspelling of the Complainant's SODEXO trademark, differing from it only by replaced the letter "e" by the letter "s". It is well settled that the practice of typo-squatting constitutes obvious evidence of the bad faith registration of a domain name. See *Lexar Media, Inc. v. Michael Huang*, WIPO Case No. [D2004-1039](#) ("Typosquatting has been held under the Policy to be evidence of bad faith registration of a domain name"); *Wal-Mart Stores, Inc. v. Longo*, WIPO Case No. [D2004-0816](#) ("[typosquatting] is presumptive of registration in bad faith").

UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names comprising typos) to a famous or widely-known trademark by an unaffiliated entity, as is the case here, can by itself create a presumption of bad faith. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 3.1.4

Furthermore, the non-use of the disputed domain name does not prevent a finding of bad faith use in these circumstances, noting, in particular, the implausibility of any good faith use to which the typo-squatting disputed domain name could be put, but also (i) the failure of the Respondent to submit a response, (ii) concealment of the identity of the Respondent, and (iii) the distinctiveness of the Complainant's trademark. See [WIPO Overview 3.0](#), section 3.3.

The Panel therefore accepts the Complainant's allegations as undisputed facts and concludes that the Respondent registered and is using the disputed domain name in bad faith.

For these reasons, the Panel holds that the Complainant has met its burden of showing that the Respondent registered and is using the disputed domain name in bad faith under paragraph 4(a)(iii) of the Policy. The third element of the Policy has, therefore, been met.

### **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 <sodsxo.com> be transferred to the Complainant.

*/Eva Fiammenghi/*

**Eva Fiammenghi**

Sole Panelist

Date: June 15, 2023