

ADMINISTRATIVE PANEL DECISION

Sodexo v. Domain Admin

Case No. D2022-0070

1. The Parties

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

The Respondent is Domain Admin, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <sodexho.info> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 10, 2022. On January 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 12 and 13, 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 January 14, 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 January 17, 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 January 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 8, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 9, 2022.

The Center appointed Knud Wallberg as the sole panelist in this matter on February 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, SODEXO (prior called SODEXHO ALLIANCE), was founded in 1966, and is one of the largest companies in the world specialized in foodservices and facilities management, with 420,000 employees serving 100 million consumers in 64 countries.

The Complainant's SODEXO and SODEXHO marks are registered in many jurisdictions around the world. Regarding the SODEXHO mark, the registrations include International trademark registration No. 689106 registered on January 28, 1998, based on the French trademark registration No. 96654774 registered on December 10, 1996, in international classes 16, 36, 37, 39, 41, and 42. The International trademark was renewed in 2018 and it covers 36 countries including the United Kingdom.

The Complainant also owns numerous domain names containing the marks SODEXO or SODEXHO, *inter alia*, <sodexo.com>, <uk.sodexo.com>, <sodexho.fr>, and <sodexho.com>.

The disputed domain name was registered on November 28, 2021. At the time of the filing of the Complaint, the disputed domain name redirected to a website under another domain name that offered furniture. At the time of this decision, the disputed domain name redirected to a website under another domain name that offered jewelry and other accessories for men.

5. Parties' Contentions

A. Complainant

The Complainant asserts that the disputed domain name is identical to the SODEXHO mark and is almost identical to the SODEXO mark, and that the public will therefore obviously believe that the disputed domain name comes from the Complainant or is linked to the Complainant.

The Complainant further asserts that according to the Complainant's knowledge, the Respondent has no rights nor legitimate interests in the disputed domain name as the Respondent has no rights in SODEXHO or SODEXO as corporate name, trade name, shop sign, mark or domain name that would be prior to the Complainant's rights. In addition, the Respondent was not commonly known by the disputed domain name prior to the adoption and use by the Complainant of the corporate name, business name, and mark SODEXHO / SODEXO. Moreover, 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 the disputed domain name was registered and is used in bad faith. The word SODEXHO is purely fanciful and due to the well-known character and reputation of the SODEXHO and SODEXO marks, the Respondent most likely knew its existence when he registered the disputed domain name and knowing that he had no rights or legitimate interests in the disputed domain name. By using the disputed domain name to point Internet users to a commercial website, it is obvious that the Respondent wants to attract potential prospective customers by creating a likelihood of confusion with the Complainant's name and mark and by misleading them into believing that its own products are proposed, authorized, or endorsed by the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

- (i) that the disputed domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) that the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

A. Identical or Confusingly Similar

The Panel finds that the disputed domain name is identical (in the sense of the Policy) to the Complainant's registered trademark SODEXHO.

The disputed domain name thus comprises the Complainant's SODEXHO trademark in its entirety and the gTLD ".info", which is a standard registration requirement and as such is generally disregarded under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#).

The Panel finds that the conditions in paragraph 4(a)(i) of the Policy are therefore fulfilled in relation to the disputed domain name.

B. Rights or Legitimate Interests

It is clear from the facts of the case that the Complainant has not licensed or otherwise permitted the Respondent to use its trademark and given the circumstances of this case, the Panel finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name.

The Respondent has not produced, and there is no evidence of the types of circumstances set out in paragraph 4(c) of the Policy that might give rise to rights or legitimate interests in the disputed domain name on the part of the Respondent in these proceedings. The disputed domain name has, at the time of filing the Complaint and now at time of decision drafting, redirected to sites of a commercial nature. Under the circumstances, considering the high risk of implied affiliation caused by the identical replication of the Complainant's SODEXHO mark without modification in the construction of the disputed domain name, the use of the Complainant's mark to redirect Internet users does not support a claim to rights or legitimate interests. See sections 2.5.1 and 2.5.3 of the [WIPO Overview 3.0](#).

Consequently, the Panel finds that the condition in paragraph 4(a)(ii) of the Policy is also fulfilled.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires the Complainant to prove both registration and use of the disputed domain name in bad faith. Paragraph 4(b) of the Policy provides examples of circumstances which shall be evidence of registration and use in bad faith:

- (i) circumstances indicating that the holder has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the holder's documented out-of-pocket costs directly related to the domain name; or

(ii) the holder has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the holder has engaged in a pattern of such conduct; or

(iii) the holder has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the holder has intentionally attempted to attract, for commercial gain, Internet users to the holder's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the holder's website or location or of a product or service on the holder's website or location.

Accordingly, for the Complainant to succeed, the Panel must be satisfied that the disputed domain name has been registered and is being used in bad faith.

Given the circumstances of the case, in particular the distinctiveness and well-established reputation of the Complainant's trademark SODEXHO, it is inconceivable to the Panel that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark. Further, the Panel finds that the Respondent could not have been unaware of the fact that the disputed domain name it chose could attract Internet users in a manner that is likely to create confusion for such users. Moreover, the mere registration of a domain name that is identical to a well-known trademark by an unaffiliated entity may by itself create presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the disputed domain name was registered in bad faith.

The disputed domain name redirects to third party commercial websites, apparently depending on the location of the Internet user. Such use is clearly likely to disrupt the business of the Complainant and to create confusion with the Complainant's mark "as to the source, sponsorship, affiliation, or endorsement of the holder's website or location or of a product or service on the holder's website or location", and this use thus constitutes bad faith use under the Policy.

Noting that the disputed domain name incorporates a well-known trademark, that the Respondent has failed to participate in these proceedings, that there appears to be no conceivable good faith use that could be made by the Respondent of the disputed domain name and considering all the facts and evidence, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are also fulfilled in this case.

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 <sodexho.info> be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: February 28, 2022