

## **ADMINISTRATIVE PANEL DECISION**

Sodexo v. Perfect Privacy, LLC / John F  
Case No. D2022-0071

### **1. The Parties**

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

Respondent is Perfect Privacy, LLC, United States of America (“United States”) / John F, India.

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

The disputed domain name <vermontfirstsodexo.com> is registered with NamePal.com (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, 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 Complainant on January 17, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on January 20, 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 Respondent of the Complaint, and the proceedings commenced on January 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 13, 2022. Informal communications from Respondent were received on January 27, 2022, and February 2 and 18, 2022.

The Center appointed Georges Nahitchevansky as the sole panelist in this matter on February 21, 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**

Complainant, Sodexo, is an international company that provides foodservices and facilities management with over 420,000 employees across 64 countries. From 1966 to 2008, Complainant promoted its business under the SODEXHO mark and trade name, and since then under the name and mark SODEXO. Complainant owns numerous trademark registrations for the SODEXO mark around the world in connection with its various services. Of particular relevance to this proceeding, Complainant owns registrations for its SODEXO mark in stylized form in India (Registration No. 1635770, which issued to registration in 2007) and in the United States (Registration No. 3722463, which issued to registration in 2009). Complainant also owns and uses the domain name <sodexo.com> to provide information concerning Complainant and its services, and the domain name <sodexo.in> to provide information concerning its services in India.

Respondent appears to be based in India and registered the disputed domain name on August 7, 2021. Respondent has used the disputed domain name with a website that is entitled "Vermont First Sodexo" that consists of articles on a number products, such as a massage therapy chair and LED lighting, with links to various third-party websites and advertisements for third-party products.

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

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

Complainant contends that it is an internationally known provider of foodservices and facilities management and that the SODEXO mark is well known around the world. Complainant also contends that its SODEXO services are well established in India.

Complainant argues that the disputed domain name is identical or confusingly similar to Complainant's SODEXO mark as it fully consists of the SODEXO mark with non-distinguishing descriptive terms.

Complainant maintains that Respondent has no rights or legitimate interests in the disputed domain name as Respondent has (i) no rights in the SODEXO mark or trade name, (ii) is not commonly known by the disputed domain name, and (iii) has no affiliation or association with Complainant and has not been authorized to register or use the disputed domain name.

Lastly, Complainant asserts that Respondent has registered and used the disputed domain name in bad faith as the SODEXO mark is well known and Respondent clearly did so to take advantage of the SODEXO mark for purposes of attracting web users to Respondent's website.

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

Respondent did not file a formal Response, but sent the Center nearly identical emails on January 27, 2022, and February 2, 2022, asking "what do I need to do?" Respondent sent a further email to the Center on February 18, 2022, asking "whats the prob?"

#### **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;

- (ii) 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.

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

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. Section 1.2.1. of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). Complainant has provided evidence that it owns a trademark registration for the SODEXO mark and that such issued to registration years before Respondent registered the dispute domain name.

With Complainant's rights the SODEXO mark established, the remaining question under the first element of the Policy is whether the disputed domain name, typically disregarding the generic Top-Level Domain ("gTLD") such as ".com", is identical or confusingly similar with Complainant's mark. See *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#). The threshold for satisfying this first element is low and generally panels have found that fully incorporating the identical mark in a disputed domain name is sufficient to meet this standing requirement.

In the instant proceeding, the disputed domain name is confusingly similar to Complainant's SODEXO mark as it fully and clearly includes the SODEXO mark. The inclusion of the words "Vermont first" does not prevent a finding of confusing similarity, given that SODEXO is clearly identifiable in the disputed domain name. The Panel therefore finds that Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its rights in Complainant's SODEXO mark and in showing that the disputed domain name is confusingly similar to that trademark.

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

Under paragraph 4(a)(ii) of the Policy, the complainant must make at least a *prima facie* showing that the respondent possesses no rights or legitimate interests in a disputed domain name. *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once the complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

Respondent has used the disputed domain name with a website that provides articles on various third party products with links to websites further promoting or selling these products. The website also contains advertisements for food and other products unrelated to Complainant. Reviewing the website at the disputed domain name, it appears fairly obvious that Respondent registered the disputed domain name that plays upon Complainant's SODEXO mark and name as a way to drive web traffic to Respondent's website for Respondent's profit. Such use of the disputed domain name does not amount to a *bone fide* use or provide Respondent with a legitimate interest in the disputed domain name. See [WIPO Overview 3.0](#) at section 2.5.3.

Given that Complainant has established with sufficient evidence that it owns rights in the SODEXO mark, and given Respondent's above noted actions, the Panel concludes that Respondent does not have rights or legitimate interests in the disputed domain name and that none of the circumstances of Paragraph 4(c) of the Policy are evident in this case.

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

In this matter, Respondent has registered and used the disputed domain name that plays upon Complainant's SODEXO mark, a mark that enjoys a certain reputation, and used such with a website

promoting various third party products. The disputed domain name and associated website are likely to be seen by consumers as connected to or authorized by Complainant, when such is not the case. Given Respondent's actions and failure to provide a formal Response, it appears from the evidence before the Panel that Respondent was likely aware of Complainant and its SODEXO name and services and registered and used the disputed domain name for purposes of attracting web users to a website essentially promoting third party products.

There can be no doubt that Respondent was aware of this proceeding regarding the disputed domain name given the emails he or she sent to the Center. Thus, the failure of Respondent to ultimately respond in this matter to defend or explain his or her actions creates a further inference that Respondent's actions were undertaken in bad faith in order to take advantage of Complainant's SODEXO mark for the profit of Respondent. Simply put, the evidence before the panel, none of which of which is contested by Respondent, makes it more likely than not that Respondent opportunistically registered and used the disputed domain name to intentionally and misleadingly attract Internet users to Respondent's website for Respondent's own profit. See [WIPO Overview 3.0](#) at section 3.1.4 (and cases cited therein).

Accordingly, the Panel finds that Complainant succeeds under this element 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 <vermontfirstsodexo.com be transferred to Complainant.

*/Georges Nahitchevansky/*

**Georges Nahitchevansky**

Sole Panelist

Date: March 7, 2022