

ADMINISTRATIVE PANEL DECISION

Sodexo v. Privacy service provided by Withheld for Privacy ehf / Cheval Blanc

Case No. D2022-1588

1. The Parties

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

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / Cheval Blanc, France.

2. The Domain Name and Registrar

The disputed domain name <sodexogroup.email> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 2, 2022. On May 3, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 3, 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 May 4, 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 May 4, 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 May 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 1, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 2, 2022.

The Center appointed Elise Dufour as the sole panelist in this matter on June 10, 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 Sodexo (previously Sodexho), a French company founded in 1966, that specializes in food services and facilities management. With 420,000 employees serving 100 million consumers in 64 countries, the Complainant is one of the largest employers worldwide.

The Complainant owns a large portfolio of SODEXO trademarks around the world, including the following:

-International trademark SODEXO, n°964615, registered on January 8, 2008, duly renewed, and designating goods and services in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.

-International trademark SODEXO, n°1240316, registered on October 23, 2014, designating goods and services in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.

-European trademark SODEXO, n°006104657, registered on July 16, 2007, duly renewed and designating goods and services in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.

The Complainant also owns various domain names including the following ones: <sodexo.com> registered October 8, 1998, <sodexo.fr> registered January 14, 2008.

The disputed domain name <sodexogroup.email> was registered by the Respondent on May 1, 2022, and is currently inactive.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain name is (i) confusingly similar to its earlier trademarks, (ii) that the Respondent has no rights or legitimate interests in the disputed domain name, and (iii) that the disputed domain name has been registered and is being used in bad faith.

(i) The Complainant claims that the disputed domain name is confusingly similar to its trademarks, which are widely known all over the world, since the disputed domain name reproduces the SODEXO trademarks together with the generic terms "group" which is insufficient to compel confusion. Therefore, the disputed domain name is confusingly similar to its trademark.

(ii) The Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain name: the Respondent is not known by and does not have any connection with the Complainant, furthermore the Complainant has not authorized the Respondent to register or use the disputed domain name.

(iii) Due to the strong reputation and well-known character of the Complainant and its trademarks, the Complainant considers that the Respondent could not have ignored the existence of the Complainant's trademarks and that he had no rights or legitimate interests over it. Moreover, the Complainant states that the fact that the disputed domain name is inactive does not prevent to conclude that the Respondent is acting in bad faith and may be regarded as passive holding in accordance with previous panel decisions. The Complainant adds that such passive holding is likely done in the hope of commercial gain. The Complainant argues that the Respondent's bad faith may result from the threat of an abusive use of the domain name.

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 of 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 analyze the potential concurrence of the above circumstances.

A. Identical or Confusingly Similar

The Complainant submitted evidence, which incontestably and conclusively establishes rights on the SODEXO trademarks, which are used in various countries in relation to the Complainant's activity in the field of food services and facilities management. Furthermore, the well-known character of the SODEXO trademarks has been established by numerous panel decisions.

The Complainant first alleges that the disputed domain name is confusingly similar to its trademarks as it reproduces the entirety of the trademarks together with the term "group". The addition of a term does not prevent confusingly similarity since the trademark remains recognizable within the disputed domain name.

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

The burden of proof is on the Complainant to demonstrate a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. Once the Complainant has made out a *prima facie* case, the burden of production then shifts to the Respondent, which then has to demonstrate rights or legitimate interests in the disputed domain name.

The Respondent is not commonly known by the disputed domain name and does not have any rights on the Complainant's intellectual property, as a result he does not have any rights or legitimate interests over the disputed domain name.

In addition, the Complainant has not authorized or in any way licensed the Respondent to reproduce or use its trademarks.

The Panel observes that the Complainant's use and registration of the trademarks long predates the registration of the disputed domain name, as a result, the burden is on the Respondent's to establish its rights or legitimate interests over the domain name and concludes that the Complainant has made a *prima facie* case of the Respondent's lack of rights or interests, which the Respondent has not rebutted.

Therefore, the Panel finds that the Respondent has no rights or legitimate interests in respect to the disputed domain name.

C. Registered and Used in Bad Faith

In the absence of a response from the Respondent, and given the well-known reputation Complainant's trademarks, the Panel is satisfied that the Respondent most likely knew of the existence of the Complainant's trademark and of his absence of legitimate interests over it at the time of registering the disputed domain. Such knowledge is evidence of the Respondent's bad faith.

The Panel deduces that the reproduction of the Complainant's trademark in the disputed domain name was most likely done in the hope and expectation that it would create confusion. In doing so, the Respondent hoped to benefit from the Complainant's reputation.

Furthermore, the Panel notes that the fact that the site is inactive does not prevent the finding of bad faith.

Indeed, the Panel finds that the registration of the disputed domain name constitutes passive holding because of the similarity of the disputed domain name with the well-known trademark, the Respondent's lack of response, and the Respondent's use of likely false contact information for purposes of the registration of the disputed domain name. Moreover, there is no evidence suggesting the Respondent's good faith regarding the disputed domain name.

Lastly, the Panel notes that the presence of the disputed domain name in the hands of the Respondent constitutes a threat hanging over the Complainant.

Thus, the Panel finds that the Complainant successfully fulfilled the requirements of paragraph 4(a)(iii).

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, <sodexogroup.email> be transferred to the Complainant.

/Elise Dufour/

Elise Dufour

Sole Panelist

Date: June 24, 2022