

## ADMINISTRATIVE PANEL DECISION

Sodexo v. Privacy Service Provided by Withheld for Privacy ehf /Name Redacted

Case No. D2022-1702

### 1. The Parties

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

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Name Redacted.<sup>1</sup>

### 2. The Domain Name and Registrar

The disputed domain name <achat-sodexo.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 May 10, 2022. On May 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 11, 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 18, 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 19, 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

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<sup>1</sup> The Respondent appears to have used the name of a third party 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Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case.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](#).

Complaint, and the proceedings commenced on June 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 4, 2022.

The Center appointed William Lobelson as the sole panelist in this matter on July 13, 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, one of the largest companies in the world specialized in foodservices and facilities management. It owns several trademark registrations for SODEXO:

SODEXO, International trademark registration No. 964615 dated January 8, 2008, in International classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45 protected in the following countries: Armenia, Australia, Azerbaijan, Bosnia and Herzegovina, Bahrain, Belarus, Switzerland, China, Algeria, Egypt, European Union, Islamic republic of Iran, Iceland, Israel, Japan, Kyrgyzstan, Democratic People's Republic of Korea, Republic of Korea, Kazakhstan, Lesotho, Morocco, Monaco, Republic of Moldova, Montenegro, Mongolia, Namibia, Norway, Serbia, Russian Federation, Singapore, Türkiye, Ukraine, United States of America, Uzbekistan, and Viet Nam.

SODEXO, International trademark registration No.1240316 dated October 23, 2014, in International classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45 protected in the following countries: Islamic Republic of Iran, Mozambique, and United Kingdom.

SODEXO, International trademark registration No. 689106 dated January 28, 1998, in International classes 16, 36, 37, 39, 41, and 42 protected in the following countries: Armenia, Austria, Azerbaijan, Benelux, Belarus, Switzerland, China, Czech Republic, Germany, Denmark, Algeria, Egypt, Spain, Finland, United Kingdom, Greece, Hungary, Iceland, Italy, Japan, Democratic People's Republic of Korea, Kazakhstan, Latvia, Morocco, Monaco, Montenegro, Norway, Poland, Portugal, Romania, Serbia, Russian Federation, Sweden, Slovenia, Slovakia, Ukraine, and Viet Nam.

SODEXO, International trademark registration No. 694302 dated June 22, 1998, in international class 9 protected in the following countries: Armenia, Austria, Azerbaijan, Benelux, Belarus, Switzerland, China, Czech Republic, Germany, Denmark, Algeria, Egypt, Spain, Finland, United Kingdom, Greece, Hungary, Iceland, Italy, Japan, Democratic People's Republic of Korea, Kazakhstan, Latvia, Morocco, Monaco, Montenegro, Norway, Poland, Portugal, Romania, Serbia, Russian Federation, Sweden, Slovenia, Slovakia, Ukraine, and Viet Nam.

SODEXO, European Union trademark registration dated June 8, 2009, registered under No. 008346462, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.

SODEXO, European Union trademark registration dated July 16, 2007, registered under No. 006104657, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.

SODEXO QUALITY OF LIFE SERVICES, International trademark registration No. 1195702 dated October 10, 2013, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45 protected in the following countries: Australia, China, United States of America.

SODEXO, European trademark registration dated August 23, 2012, registered under No. 011138501 in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.

The Complainant also owns the domain names: <sodexo.com>, <uk.sodexo.com>, <sodexoprestige.co.uk>, <sodexo.fr>, <sodexoca.com>, <sodexousa.com>, <cn.sodexo.com>, <sodexho.fr>, and <sodexho.com>.

The Complainant has been advised of the registration of the disputed domain name <achat-sodexo.com> on May 6, 2022. The disputed domain name does not resolve toward any active web page.

The Complainant filed a UDRP Complaint on May 10, 2022, and obtained the disclosure of the Respondent's identity that appeared to be the name of one of its former employee, now retired, with an address corresponding to the Complainant's headquarters.

## **5. Parties' Contentions**

### **A. Complainant**

The Complainant claims that the disputed domain name is confusingly similar to its earlier trademarks formed with the word "sodexo"; that the Respondent does not have any rights or legitimate interests therein; finally, that the Respondent registered and uses the disputed domain name in bad faith, being emphasized that the Respondent declared a name that is identical to one of Complainant's former employees.

The Complainant requests the transfer of the disputed domain name.

### **B. Respondent**

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

## **6. Discussion and Findings**

Notwithstanding the default of the Respondent, it remains incumbent on the Complainant to make out its case in all respects under the Rules set out in paragraph 4(a) of the Policy. Namely, 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 (paragraph 4(a)(i));

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name (paragraph 4(a)(ii)); and

(iii) the disputed domain name has been registered and is being used in bad faith (paragraph 4(a)(iii)).

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

The Complainant is the owner of numerous SODEXO trademarks.

The disputed domain name <achat-sodexo.com> reproduces the Complainant's trademark SODEXO in its entirety.

Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise), in this case the term "achat" (French for "purchase") would not prevent a finding of confusing similarity under the first element; see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Furthermore, the addition of the generic Top-Level Domain ("gTLD") ".com" does not prevent a finding of confusing similarity.

The disputed domain name therefore appears confusingly similar to the Complainant's earlier registered trademark SODEXO.

Consequently, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

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

To demonstrate rights or legitimate interests in a domain name, non-exclusive respondent's defenses under UDRP, paragraph 4(c) include the following:

(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, even if the Respondent has acquired no trademark or service mark rights; or

(iii) the Respondent is making a legitimate noncommercial 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 Panel notes that the Respondent has not replied to the Complainant's contentions and thus did not deny them, nor brought any information or evidence for demonstrating any rights or legitimate interests.

The information disclosed by the Registrar as belonging to the Respondent was that of a former employee of the Complainant, as well as the Complainant's own contact information. The Complainant has confirmed that the said employee had in fact been impersonated by the Respondent.

The Panel notices besides that the Complainant has established that the said employee is in fact a former employee who is now retired. Even if the Respondent was really that person, it would not in any case have any legitimate interests in registering the disputed domain name in its own name, being no longer an employee of the Complainant.

The Complainant has thus demonstrated that the Respondent does not have any rights or legitimate interests in the disputed domain name, particularly by asserting that the Respondent is not affiliated with it in any way and that it never authorized the Respondent to use its trademark as part of the disputed domain name.

The Complainant further contends that the Respondent is not known under the disputed domain name and does not make any *bona fide* use, neither commercial nor noncommercial, of the same, being emphasized that the disputed domain name does not resolve towards an active web page with substantive content.

The Panel 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 substantiated the fact that its trademark SODEXO, which has been registered and used in France and internationally for years, now benefits from a high level of public awareness. It therefore appears very unlikely that the Respondent could not be aware of the Complainant's rights in the trademark SODEXO when it sought to register the disputed domain name.

The Complainant also contends that when the identity of the Respondent was eventually disclosed by the Registrar pursuant to the introduction of the present Complaint, it was found that the Respondent had used the same name as that of one of the Complainant's former employees, and an address corresponding to the address of the Complainant's headquarters. The Complainant asserts that its former employee did not seek

to register the disputed domain name and is not the Respondent.

The Panel has therefore no reason to question the accuracy of the Complainant's assertion that the Respondent fraudulently impersonated one of the Complainant's former employees, and used false information to register the disputed domain name.

For this Panel, the above is a clear indication that the Respondent necessarily had the Complainant's trademark in mind when he registered the disputed domain name.

It is further noted by the Panel that the disputed domain name is not being actively used by the Respondent, and does not resolve to any active web page with substantive content.

It is a consensus view among UDRP panels that, with comparative reference to the circumstances set out in paragraph 4(b) of the UDRP deemed to establish bad faith registration and use, the apparent lack of so-called active use (e.g., to resolve to a website) of the domain name, does not prevent a finding of bad faith.

The Panel must examine all the circumstances of the case to determine whether the Respondent is acting in bad faith.

Examples of what may be cumulative circumstances found to be indicative of bad faith include the Complainant having a well-known trademark and no response to the Complaint having been filed. UDRP panels may draw inferences about whether a domain name is used in bad faith, given the circumstances surrounding registration.

As stated in [WIPO Overview 3.0](#), section 3.3, there is a consensus view about "passive holding":

"From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or 'coming soon' page) would not prevent a finding of bad faith under the doctrine of passive holding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put."

The Panel finds, therefore, that the passive holding of the disputed domain name in this case does not prevent a finding of bad faith.

## **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, <achat-sodexo.com>, be transferred to the Complainant.

*/William Lobelson/*

**William Lobelson**

Sole Panelist

Date: July 19, 2022