

ADMINISTRATIVE PANEL DECISION

Sodexo v. Eric Sande
Case No. D2022-3534

1. The Parties

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

The Respondent is Eric Sande, France.

2. The Domain Name and Registrar

The disputed domain name <btob-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 September 23, 2022. On September 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 26, 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 (Privacy Service Provided by Withheld for Privacy ehf). The Center sent an email communication to the Complainant on September 27, 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 September 28, 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 September 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 21, 2022.

The Center appointed Emmanuelle Ragot as the sole panelist in this matter on October 28, 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 a well-known French company specialized in food services and facilities management, that owns and operates numerous companies globally.

The Complainant owns:

- European Union trademarks SODEXO (no. 006104657 and no. 008346462) filed respectively on July 16, 2007, and June 8, 2009; and
- International trademarks SODEXO (no. 964615 and no. 1240316) registered respectively on January 8, 2008, and October 23, 2014, for products and services in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.

The International trademarks designate numerous countries including the European Union.

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 September 19, 2022.

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

5. Parties' Contentions

A. Complainant

The Complainant asserts that its SODEXO marks are well known, that the disputed domain name is confusingly similar to the Complainant's trademarks, that the Respondent has no permission from the Complainant to use the Complainant's trademarks or apply for a domain name with the Complainant's trademarks, that the Respondent is not commonly known by and does not have rights or legitimate interests with respect to the disputed domain name in connection with a *bona fide* offer of goods and services, and that the Respondent registered and is using the disputed domain name in bad faith.

The Complainant argues that although the disputed domain name leads to an inactive website, it fears a possible fraudulent use of the disputed domain name to perpetrate email scams.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy directs that the 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;
- (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.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the trademark SODEXO based on the trademark registration submitted to the Complaint.

As highlighted in section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the first element functions primarily as a standing requirement, and the threshold test for confusing similarity typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

In the case at hand, the Complainant's trademark SODEXO is entirely reproduced in the disputed domain name, with the mere additions of "btob" and the generic Top-Level Domain ("gTLD") ".com", which is commonly disregarded under the first element confusing similarity test (section 1.11 of the [WIPO Overview 3.0](#)).

The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name.

The addition of the term "btob" and of the gTLD ".com" does not prevent the confusing similarity between the disputed domain name and the Complainant's SODEXO trademark.

The Panel considers that in the present matter:

- the disputed domain name is confusingly similar to the Complainant's trademarks since the SODEXO trademarks are clearly recognizable in the disputed domain name notwithstanding the addition of the term "btob"; and
- a gTLD may be disregarded in assessing whether a domain name is identical or confusingly similar to a trademark, although it may be relevant to a determination of the other elements of the UDRP.

The Panel is satisfied that the disputed domain name is confusingly similar to the Complainant's trademark for the purposes of the Policy.

Therefore, the Panel finds that the Complainant has proven that the disputed domain name is confusingly similar to a trademark in which the Complainant has established rights according to paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant must show that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent may establish rights or legitimate interests in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

"(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

The disputed domain name consists of the Complainant’s trademark along with the acronym “btob”, which can be interpreted as “business to business”, corresponding to a sector of the Complainant’s services. Accordingly, the disputed domain name carries a clear risk of implied affiliation that cannot constitute fair use since consumers would expect to land on a website of the Complainant, contrary to the fact.

The Respondent has chosen not to reply to the Complaint.

The Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests, and finds no indication in the evidence that the Respondent could claim rights or legitimate interests of his own in the term “Sodexo” or the combination of terms “btob-sodexo”. Moreover, the Registrar has disclosed the Respondent as “Eric Sande” and as such, the Respondent does not seem to be commonly known by the disputed domain name or the term “Sodexo”.

The Panel finds that in the present case the Respondent does not have any rights or legitimate interests with respect to the disputed domain name.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant prove that the disputed domain name was registered and is being used by the Respondent in bad faith.

The Complainant argues that the Respondent knew or could not have ignored the Complainant’s well-known SODEXO trademarks, and that the registration of the disputed domain name allows a finding of bad faith under the passive holding doctrine.

The Panel finds that the Complainant’s ubiquitous use of its SODEXO trademarks, and the use of the terms “btob” make it unlikely that the Respondent was or could have been unaware of the Complainant’s SODEXO trademarks. Rather, panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

These circumstances are sufficient to find bad faith registration.

The record shows that:

(i) the Complainant’s SODEXO trademarks are well known, as evidenced by their substantial use;

(ii) the disputed domain name reproduces the term “sodexo”, which is not a common or dictionary word, and combines the term with a descriptive acronym of the Complainant’s services, being “btob”; and

(iii) any website set up by the Respondent at the disputed domain name would confuse and mislead Internet users, rendering implausible any potential good faith use.

These circumstances are sufficient to also find bad faith based on the passive holding of the disputed domain name. [WIPO Overview 3.0](#), section 3.3. Thus, the Panel does not need to reach the question on the hypothetical use of the disputed domain name for fraud, noting that no evidence has been provided to support a finding that the disputed domain name has been used for said purposes.

The Panel concludes that the Respondent's passive holding of the disputed domain name in the present matter satisfies the bad faith requirement of paragraph 4(a)(iii) 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 <btob-sodexo.com> be transferred to the Complainant.

/Emmanuelle Ragot/

Emmanuelle Ragot

Sole Panelist

Date: November 9, 2022