

ADMINISTRATIVE PANEL DECISION

Sodexo v. Carolina Rodrigues, Fundacion Comercio Electronico
Case No. D2022-3571

1. The Parties

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

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <1sodexo.com> 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 September 27, 2022. On September 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Registration Private, Domains By Proxy, LLC). The Center sent an email communication to the Complainant on September 28, 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 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 20, 2022.

The Center appointed Kathryn Lee as the sole panelist in this matter on October 25, 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 French company specializing in foodservices and facilities management. The Complainant has 412,000 employees in 56 countries that service 100 million consumers daily. In the 2021 fiscal year, the Complainant had consolidated revenues of EUR 17.4 billion, and was listed as one of “The World’s Most Admired Companies” by Fortune Magazine in 2021. The Complainant used the mark SODEXHO from 1966 to 2008, when it simplified the spelling to SODEXO. It owns trademark registrations for SODEXO in a number of jurisdictions worldwide, including the International Trademark Registration Number 1240316, registered on October 23, 2014, which designates Iran (Islamic Republic of), Mozambique, and the United Kingdom; and, the European Union Trademark Registration Number 008346462, registered on February 1, 2010.

The Respondent appears to be an individual with an address in Panama.

The disputed domain name was registered on September 7, 2022, and does not resolve to any active website.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the SODEXO trademark in which it has rights. The disputed domain name incorporates the SODEXO trademark in its entirety as the predominant portion of the disputed domain name, and the number “1” would be perceived to refer to the Complainant’s leading position in the field and does not distinguish the disputed domain name from the Complainant’s mark.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect.

Finally, the Complainant contends that the disputed domain name was registered and is used in bad faith. The Complainant asserts since SODEXO is a coined term and a famous mark, nobody could legitimately choose this word unless to create an association with the Complainant and its mark. Therefore, the Complainant contends that the Respondent, very likely, registered the disputed domain name for the purpose of creating confusion with the Complainant’s mark to divert or mislead third parties for the Respondent’s illegitimate profit, and that the current passive holding of a domain name does not prevent a finding of bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated with supporting evidence that it has rights to the trademark SODEXO in jurisdictions around the world. According to WIPO Overview of WIPO Panel Views on Selected UDRP

Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7, a domain name is considered confusingly similar to a trademark if it “incorporates the entirety of a trademark”. In this regard, the SODEXO mark is incorporated in the disputed domain name in full, and is readily recognizable within the disputed domain name. The addition of the number “1” does not prevent a finding of confusing similarity (see [WIPO Overview 3.0](#), section 1.8).

For the reason mentioned above, the Panel finds that the first element has been established.

B. Rights or Legitimate Interests

On the basis of the present record, the Panel finds that the Complainant has made the required allegations to support a *prima facie* showing that the Respondent has no rights or legitimate interests in the disputed domain name. Once such a *prima facie* basis has been established, the Respondent carries the burden of demonstrating its rights or legitimate interests in the disputed domain name. However, the Respondent in this case has chosen to file no response to these assertions by the Complainant, and there is no evidence or allegation in the records that would warrant a finding in favor of the Respondent on this point.

A respondent’s use of a domain name is not considered “fair” if it falsely suggests affiliation with the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1. Here, the disputed domain name contains the Complainant’s trademark SODEXO in its entirety, and as such, the disputed domain name carries a risk of implied affiliation.

For the reasons provided above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element has been established.

C. Registered and Used in Bad Faith

The Panel finds that there is sufficient evidence to find bad faith in this case.

Considering the fame of the Complainant and the Complainant’s trademark, it is highly unlikely for the Respondent to have not known about the Complainant prior to registering the disputed domain name. Rather, especially with no response to claim otherwise, it is more probable that the Respondent registered the disputed domain name with the intention of benefiting from the fame of the mark in some way.

The disputed domain name is not connected to any website and there is no evidence showing that it has ever been used. From the inception of the UDRP, panelists have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. See [WIPO Overview 3.0](#), section 3.3. Considering (i) the degree of distinctiveness and reputation of the Complainant’s SODEXO 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 using a privacy service, and (iv) the implausibility of any good faith use for the inherently misleading dispute domain name, the Panel finds that the Respondent’s non-use of the disputed domain name does not prevent a finding of bad faith.

Lastly, the Respondent seems to be engaged in a pattern of bad faith conduct, having targeted the Complainant in various prior UDRP proceedings (see *Sodexo v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-3132](#); *Sodexo v. Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020 0310](#); *Sodexo v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2021-0485](#); *Sodexo v. Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2022-0754](#), among others).

For the reasons given above, the Panel finds that the third and final element has been sufficiently established.

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, <1sodexo.com>, be transferred to the Complainant.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: November 8, 2022