

ADMINISTRATIVE PANEL DECISION

SODEXO v. Vectron Liga

Case No. D2023-1707

1. The Parties

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

The Respondent is Vectron Liga, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <sodexopt.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 April 18, 2023. On April 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 19, 2023, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 4, 2023, 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 5, 2023.

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 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 31, 2023. The Respondent sent informal communications to the Center on May 9 and May 11, 2023, respectively. Accordingly, the Center notified Commencement of Panel Appointment Process to the Parties on June 30, 2023.

The Center appointed Angela Fox as the sole panelist in this matter on July 20, 2023. 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 founded in 1966, and is one of the largest food services and facilities management companies in the world. It operates in 53 countries and has 422,000 employees serving some 100 million consumers daily. Its consolidated revenues for the fiscal year 2022 reached EUR 21.1 billion, of which 44% was in North America, 38% was in Europe, and 18% was in the rest of the world, including in the United Kingdom.

From 1966 to 2008, the Complainant carried out its business under the name and trademark SODEXHO. In 2008, it changed its name and brand to SODEXO and it continues to carry on business under this name.

The Complainant claims that its SODEXO trademark is well known and has a substantial international reputation, and refers to a number of prior panel decisions to that effect (including *Sodexo v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1580](#); *SODEXO v. Zhichao Yang (杨智超)*, WIPO Case No. [D2020-2286](#); *SODEXO v. Ashutosh Dwivedi, Food & Beverages*, WIPO Case No. [D2020-2686](#); and *Sodexo v. Domains By Proxy, LLC, DomainsByProxy.com / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-3085](#)).

The Complainant owns numerous trademark registrations for SODEXO and marks including SODEXO, including the following:

- United Kingdom trademark registration no. UK00908346462 for SODEXO, in Classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45, registered on February 1, 2010;
- United Kingdom trademark registration no. UK00906104657 for SODEXO (device mark) in Classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45, registered on June 27, 2008;
- European Union trademark no. 008346462 for SODEXO, in Classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45, registered on February 1, 2010;
- International trademark registration no. 964615 for SODEXO (device mark), in Classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45, registered on January 8, 2008; and
- International trademark registration no. 1240316 for SODEXO, in Classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45, registered on October 23, 2014.

The Complainant owns numerous domain names containing SODEXO, which it uses to promote its activities worldwide, including <sodexo.com>, <uk.sodexo.com>, <sodexoprestige.co.uk>, <sodexo.fr>, <sodexoca.com>, <sodexousa.com>, <cn.sodexo.com>, <sodexho.fr>, and <sodexho.com>.

The disputed domain name was registered on April 13, 2023. It has been used to link to a Registrar's parking page, providing what appear to be pay-per-click links to websites of competitors of the Complainant including in the field of catering services. The Complaint includes a screenshot from the website linked to the disputed domain name, displaying a message that the Complainant's antivirus software had detected and removed a malicious link.

5. Parties' Contentions

A. Complainant

The Complainant submits that the disputed domain name is identical or confusingly similar to its SODEXO trademark. The disputed domain name incorporates SODEXO in a recognizable form and adds the letter

string “pty”, which denotes an Australian company. The Complainant also trades in Australia and argues that the disputed domain name is likely to be associated with its Australian subsidiary.

The Complainant further submits that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is unknown to the Complainant, and has no affiliation, association, sponsorship, or connection with the Complainant, and the Complainant has not authorized, licensed, or otherwise permitted the Respondent to register the disputed domain name. The Respondent has no rights in the disputed domain name and does not appear to have been commonly known by it.

Finally, the Complainant submits that the disputed domain name was registered and has been used in bad faith. The Complainant asserts that the SODEXO trademark is so fanciful, and so well known, that the Respondent cannot have registered it without knowledge of the Complainant and an intention to create an association with the Complainant’s activities. Moreover, the Complainant points to the presence of a malicious link at the website linked to the disputed domain name as tarnishing to the Complainant’s reputation and further evidence of the Respondent’s bad faith. Finally, the Complainant alleges that the Respondent is using the disputed domain name to attract Internet users under the false impression that it denotes a website of the Complainant, and to incite them to click on commercial links relating to competitors of the Complainant. The Complainant submits that this constitutes an intentional attempt to attract, for commercial gain, Internet users to those competing websites by creating a likelihood of confusion with the Complainant.

B. Respondent

The Respondent did not reply to the Complainant’s contentions but indicated in its email communication that “I have paid for this domain, I will like to appreciate that this has already cost me financially. I am willing to sell this domain to you for a fee, we can go ahead and agree on a price. Please advise if this is something you are happy to buy? Before I go ahead and contact my lawyers?”

6. Discussion and Findings

Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the panel finds that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

All three elements must be present before a complainant can succeed in an administrative proceeding under the Policy.

A. Identical or Confusingly Similar

The Complainant has proved that it has registered trademark rights in SODEXO, which predate the registration of the disputed domain name.

The disputed domain name includes SODEXO in its entirety, followed only by letter string “pty”, and the Top-Level Domain (“gTLD”) “.com”. As noted in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), at section 1.11.1, the gTLD is a standard registration requirement and as such is disregarded under the first element confusing similarity test.

Under paragraph 1.7 of the [WIPO Overview 3.0](#), “in cases where a domain name incorporates the entirety of

a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.”

In this case, the disputed domain name incorporates the entirety of the Complainant’s registered SODEXO trademark, which is clearly recognizable within the disputed domain name. The Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The burden of proving absence of rights or legitimate interests in a domain name falls on complainants, but panels have long recognized that the information needed to prove such rights or legitimate interests is normally in the possession of respondents.

In order to avoid requiring complainants to prove a negative, which will often be impossible, UDRP panels have typically accepted that once a complainant has established a *prima facie* case that a respondent lacks rights or legitimate interests, the respondent carries the burden of proving that it does indeed have such rights or interests (see, *inter alia*, *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. [D2004-0110](#)). In the present case, the Complainant has put forward a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. There is nothing on the record in this case to indicate that the Respondent might have any rights or legitimate interests in the disputed domain name, nor has the Respondent attempted to make out a case that it has. The Complainant has not authorized the Respondent to use the disputed domain name, nor is there any evidence that the Respondent has ever been commonly known by it. The Respondent is not making any noncommercial or fair use of the disputed domain name, but is rather using it for a parking page hosting links to websites of competitors of the Complainant for commercial gain.

The Complainant has also provided evidence that the disputed domain name has been used to link to a website hosting a malicious link. [WIPO Overview 3.0](#), section 2.13.1 states; “[p]anel have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent.”

Taking all of the above into account, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The Complainant has been carrying on business internationally under the SODEXO mark and its predecessor SODEXHO since 1966.

The Complainant’s business is very substantial internationally and numerous prior UDRP panels have found that SODEXO is a well known mark and enjoys a substantial reputation. The Complainant alleges that the Respondent must have known of the Complainant prior to its registration of the disputed domain name, and that such knowledge prompted the Respondent to register it. The Respondent has made no attempt to rebut this or to provide an explanation for its conduct.

Under paragraph 4(b)(iv) of the Policy, the Panel may find both registration and use in bad faith where there is evidence that by using the domain name, a respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with a complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the respondent’s website or location or of a product or service on it.

In addition, [WIPO Overview 3.0](#), section 3.4, states that “[p]anel have held that the use of a domain name

for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution.”

In this case, the Complainant has shown that it does business internationally, including in Australia, and the disputed domain name is inherently liable to mislead Internet users into believing that it denotes a website of the Complainant’s Australian subsidiary. The website linked to the disputed domain name includes what appear to be pay-per-click links to third-party websites, including to competitors of the Complainant. Moreover, the pay-per-click page linked to the disputed domain name appears to include a malicious link.

In light of all these circumstances, the Panel finds that the disputed domain name was registered and has been used in 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 <sodexopt.com> be transferred to the Complainant.

/Angela Fox/

Angela Fox

Sole Panelist

Date: August 16, 2023