

ADMINISTRATIVE PANEL DECISION

Sodexo v. Adam Scoffield, Yah Allah
Case No. D2023-3700

1. The Parties

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

The Respondent is Adam Scoffield, Yah Allah, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <sodecxo.com> is registered with Squarespace Domains II LLC (the “Registrar”)¹.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 5, 2023. On September 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 5, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 6, 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 September 8, 2023.

The Center verified that the Complaint 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 11, 2023. In accordance with the Rules,

¹ The Complaint was filed identifying the Registrar as Google LLC. On October 2, 2023, Google LLC confirmed that the disputed domain name is registered with Squarespace Domains II LLC following a purchase agreement. Google LLC has confirmed both Registrars’ compliance with the UDRP and the implementation of the decision by either Registrar.

paragraph 5, the due date for Response was October 1, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 6, 2023.

The Center appointed Taras Kyslyy as the sole panelist in this matter on October 17, 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

Founded in 1966, the Complainant (previously called Sodexho Alliance) is one of the largest companies in the world specialized in foodservices and facilities management, with 422 000 employees serving daily 100 million consumers in 53 countries. The Complainant is one of the largest employers worldwide. For the fiscal year 2022, consolidated revenues reached EUR 21,1 billion which represent by region: 44% North America, 38 % Europe, and 18 % for the rest of the world.

From 1966 to 2008, the Complainant promoted its business under the SODEXHO mark and trade name. In 2008, the Complainant simplified the spelling of its mark and name to SODEXO.

The SODEXO mark is continuously and extensively used and registered worldwide, including for instance international trademark registration No. 964615, for SODEXO, registered on January 8, 2008, designating also the United States.

The Complainant runs its business via the website "www.sodexo.com".

The disputed domain name was registered on August 31, 2023, and does not resolve to any active website.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant's trademark. The Complainant's trademark is misspelled in the disputed domain name. The spelling mistake consists in adding the letter "c" just above the letter "x". The letter "c" is placed just after the letter "x" on the keyboard. Furthermore, the disputed domain name and the Complainant's trademark are phonetically identical. The Respondent has registered the disputed domain name using the typo-squatting technique intended to create confusing similarity between the Complainant's trademark and the disputed domain name.

The Complainant also contends that the Respondent has no rights nor legitimate interests in the disputed domain name as the Respondent has no rights on SODEXO as a corporate name, trade name, shop sign, mark or domain name that would be prior to the Complainant's trademark rights. The Respondent was not commonly known by the disputed domain name prior to the adoption and use by the Complainant of its trademark, corporate or business name. The Respondent does not have any affiliation, association, sponsorship or connection with the Complainant and has not been authorized, licensed or otherwise permitted by the Complainant or by any subsidiary or affiliated company to register the disputed domain name and to use it.

The Complainant also contends that the disputed domain name was registered and is being used in bad faith. The Complainant's trademark is purely fanciful and nobody could legitimately choose this word or any variation thereof, unless seeking to create an association with the Complainant's activities and trademark.

Given the well-known character and reputation of the Complainant's trademark, the Respondent knew its existence when the Respondent registered the disputed domain name, so that the Respondent perfectly knew that it had no rights or legitimate interests in the disputed domain name and that it cannot lawfully use it. Even if the disputed domain name, which has been recently created, does not presently seem to have any active content, a passive holding of a domain name does not prevent a finding of bad faith. The unauthorized registration of the disputed domain name by the Respondent and its passive holding, likely in the aim of fraudulent use, are for the purpose of commercial gain and then constitute bad faith registration and use.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. 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. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The applicable Top-Level Domain ("TLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11. Thus, the Panel disregards gTLD ".com" for the purposes of the confusing similarity test.

The Panel considers the disputed domain name consists of an intentional misspelling of the Complainant's trademark by adding "c" letter before "x" letter, as they are situated next to each other at a standard keyboard resulting in mistyping. This confirms the confusing similarity of the disputed domain name to the Complainant's trademark. [WIPO Overview 3.0](#), section 1.9.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The available evidence does not confirm that the Respondent is commonly known by the disputed domain name, which could demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. The Panel is convinced that the Complainant's trademark is well established through long and widespread use and the Complainant has acquired a significant reputation and level of goodwill in its trademark both in France and internationally. Thus, the Panel finds that the disputed domain name, confusingly similar to the Complainant's trademark, was registered in bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Panels 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. Having reviewed the record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. 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. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been 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, <sodecxo.com> be transferred to the Complainant.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: October 30, 2023