

ADMINISTRATIVE PANEL DECISION

Sodexo v. Gokhan yerlikaya, Sodex Network
Case No. D2023-4589

1. The Parties

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

The Respondent is Gokhan yerlikaya, Sodex Network, Türkiye.

2. The Domain Name and Registrar

The disputed domain name <sodex.network> (the “Domain Name”) 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 November 6, 2023. On November 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 6, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 14, 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 November 17, 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 November 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 11, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 12, 2023. On December 20, 2023, the Respondent sent an informal email communication to the Center.

The Center appointed Olga Zalomiy as the sole panelist in this matter on January 8, 2024. 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, which is one of the biggest companies in the world specialized in foodservices and facilities management, with 422,000 employees serving daily 100 million consumers in 53 countries. Between 1996 and 2008, the Complainant promoted its goods and services under the SODEXHO mark and trade name. In 2008, SODEXHO simplified the spelling of its mark and name to SODEXO.

The Complainant owns several trademark registrations for the SODEXO mark, such as:

- The International registration No. 964615 for the trademark SODEXO (stylized word), registered on January 8, 2008 (designating Turkey among other countries);
- The International registration No. 1240316 for the word trademark SODEXO, registered on October 23, 2014;
- The International registration No. 694302 for the trademark SODEXO (word and design), registered on June 22, 1998.

Prior panels recognized the well-known status of the Complainant's SODEXO mark.¹

The Complainant is well-established in Turkey, where the Respondent resides. The Complainant owns the "https://tr.sodexo.com/tr" and "https://www.sodexoavantaj.com/" websites through which it conducts its business in Turkey.

The Respondent registered the Domain Name on October 23, 2023. The Domain Name does not direct to an active website.

After the Respondent received the notification of Respondent Default, the Respondent sent an email in Turkish which is translated into English as follows:

"I don't quite understand what you want from me.
If you want to buy my domain name, you can buy it for \$10000 USD..."

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 Domain Name.

Notably, the Complainant contends that the Domain Name is confusingly similar to the Complainant's trademarks and domain names because it reproduced the Complainant's trademark SODEXO in its entirety omitting only the letter "o" at the end of the mark. Based on the composition of the Domain Name, it will be perceived as related to the SODEXO group of companies. The Complainant argues that the Respondent

¹See, e.g., *Sodexo v. Contact Privacy Inc. Customer 1247189803 / NorAm Accounts Receivable*, WIPO Case No. [D2020-1683](#); *SODEXO v. Super Privacy Service LTD c/o Dynadot / Zhichao*, WIPO Case No. [D2020-1762](#); *SODEXO v. Zhichao Yang* (杨智超), WIPO Case No. [D2020-2286](#).

has no rights or legitimate interests in the Domain Name because the Respondent is not commonly known under the name “SODEXO”, “SODEXHO” or the Domain Name and has not acquired a trademark or service mark under that name. Considering the widely recognized reputation of the SODEXO / SODEXHO mark, it is evident that the Respondent was aware of its existence when registering the Domain Name. This indicates that the Respondent registered the Domain Name in bad faith. Passive holding of the Domain Name does not prevent finding of bad faith use in this case based on the following circumstances: the well-known nature of the Complainant's mark, the lack of evidence of any good faith use with regard to the Domain Name and a clear absence of rights or legitimate interests, coupled with no credible explanation for the Respondent's choice of the domain name.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, to succeed in this proceeding, the Complainant must prove each of the following elements with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

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.

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 that the Domain Name is confusingly similar to the Complainant's SODEXO trademark. It is well established that “[a] domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element”. [WIPO Overview 3.0](#), section 1.9. In this case, the Domain Name represents a typographical variation of the SODEXO trademark, where the Domain Name omits the letter “o” at the end of the mark. Given that the misspelled SODEXO trademark remains recognizable in the Domain Name, and the inclusion of the generic Top-Level Domain (“gTLD”) “.network” is typically disregarded in the context of the confusing similarity assessment, being a technical requirement of registration, the Panel determines that the Domain Name is confusingly similar to the Complainant's trademark. [WIPO Overview 3.0](#), section 1.11.

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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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.

Here, there is no evidence on record shows that the Respondent is commonly known by the Domain Name. The Respondent is not using the Domain Name in connection with *bona fide* offering of goods or services. Nor is the Respondent making a legitimate noncommercial or fair use of the Domain Name, because the Domain Name does not direct to any active websites.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the 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 Domain Name such as those enumerated in the Policy or otherwise.

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 Respondent’s email on December 20, 2023, proposing to sell the Domain Name to the Complainant for USD 10,000, along with the fact that the Domain Name consists of a typo of the Complainant’s well-known trademark and that the Respondent lacks any right or legitimate interest in the Domain Name, suggests that the Respondent registered the Domain Name primarily with the intention of selling, renting, or otherwise transferring it to the Complainant or to a competitor, for an amount in excess of the Respondent’s documented out-of-pocket costs directly related to the Domain Name under paragraph 4(b)(i) (absent any evidence from the Respondent to the contrary).

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the Domain Name does not prevent a finding of bad faith in the circumstances of this proceeding. Although 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, and (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant’s trademark, and the composition of the Domain Name, Respondent’s failure to submit any evidence of actual or contemplated good faith use of the Domain Name, and finds that in the circumstances of this case the passive holding of the Domain Name does not prevent a finding of bad faith under the Policy.

The Panel finds that the Complainant has established the third element 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 <sodex.network> be transferred to the Complainant.

/Olga Zalomiy/

Olga Zalomiy

Sole Panelist

Date: January 18, 2024