

ADMINISTRATIVE PANEL DECISION

Sodexo v. Office Admin
Case No. D2024-0211

1. The Parties

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

The Respondent is Office Admin, France.

2. The Domain Name and Registrar

The disputed domain name <mail-sodexo.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 18, 2024. On January 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 18, 2024, 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 (PrivacyGuardian.org LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 19, 2024, 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 January 19, 2024.

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 January 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 12, 2024. The Respondent did not submit any response. However, the Respondent sent an informal email communication to the Center on January 23, 2024. The same day, the Complainant filed an additional submission with the Center, with new evidence relevant to this case. The Center sent Commencement of Panel Appointment Process email on February 23, 2023.

The Center appointed Benjamin Fontaine as the sole panelist in this matter on February 29, 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 the French company SODEXO (previously called Sodexho Alliance), one of the largest companies in the world specialized in food services and facilities management.

It has around 430 000 employees, in 45 countries, serving 80 million consumers daily. In the fiscal year 2023, the Complainant had consolidated revenues of over EUR 22,6 billion, which represent by region: 46% North America, 36 % Europe, and 18 % for the rest of the world.

The Complainant holds an extensive portfolio of registrations for SODEXO, including the following trade marks:

- the French trade mark *sodexo*^{*} No. 3513766, registered on December 21, 2007;
- the French trade mark SODEXO No. 4697571, registered on March 12, 2021;
- the European Union trade mark SODEXO No. 008346462, registered on February 1, 2010;
- the International trade mark *sodexo*^{*} No. 964615, registered on January 8, 2008.

In support of its activities, the Complainant also owns and uses a vast portfolio of domain names, including the domain name <sodexo.com>.

The trade mark SODEXO is widely known in France where the company SODEXO is located, and all over the world where the Complainant provides a wide range of services under this trade mark, mostly to deliver on-site food services, but also benefit and reward services, and also personal and home services.

The Complainant has been successful in numerous previous UDRP complaints in which its SODEXO trade mark has been assessed as being both well-known and highly distinctive. See for example *Sodexo v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2021-3412](#), *Sodexo v. Contact Privacy Inc. Customer 124789803 / NorAm Account 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*, WIPO Case No. [D2020-2286](#), , *Sodexo v. Lloyd Group*, WIPO case [D2021-1214](#), *Sodexo v. Cheval Blanc*, WIPO case [D2022-1588](#) and *Sodexo v. chengao*, WIPO Case No. [D2023-1894](#).

The disputed domain name was registered on January 15, 2024. At the time of filing the Complaint, it resolved to a parking page with pay-per-click (“PPC”) links to competing websites, including a website offering restaurant services.

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 confusingly similar to its trade mark SODEXO. The disputed domain name <mail-sodexo.com> incorporates the trade mark SODEXO in its entirety. The addition of the English word “mail” is inoperative to distinguish it from the Complainant’s marks. Indeed, the trade mark SODEXO remains dominant in the disputed domain name and keeps its individuality

and attractive character. Given the identical reproduction of the trade mark SODEXO, the public will undoubtedly believe that the disputed domain name comes from SODEXO group or is linked to SODEXO. Second, according to the Complainant's knowledge, the Respondent has no rights nor legitimate interests in the disputed domain name. It has no rights in SODEXO as a corporate name, trade name, shop sign, trade mark or domain name that would be prior to the adoption and use by the Complainant of the corporate name, business name and trade mark SODEXO / SODEXHO. Furthermore, the Respondent who registered the disputed domain name under the protection of a privacy protection service does not have any affiliation, association, sponsorship or connection with the Complainant. It has not been authorized, licensed or otherwise permitted by the Complainant or by any subsidiary or affiliated company to register the concerned domain name and to use it.

Third, the Complainant indicates that the disputed domain name was registered and used in bad faith. Indeed, the sign SODEXO is purely fanciful, and no third party could legitimately choose this word or any variation thereof (specifically associated with the element "mail"), unless seeking to create an association with the Complainant's activities and the trade mark SODEXO. Given the reputation of the trade mark SODEXO / SODEXHO, the Respondent knew its existence when he registered the disputed domain name. The Respondent used the disputed domain name to attract Internet users to a parking page and incite them to click on the Complainant's competitors' commercial links, for commercial gain, by creating a likelihood of confusion with the well-known mark SODEXO. This is not only confusing for the consumers, but also creates a dilution of the mark SODEXO. Then, the unauthorized registration of the disputed domain name by the Respondent, constitute bad faith registration and use.

B. Respondent

The Respondent sent an informal communication to the Center on January 23, 2024, stating that it had never been involved in any illegal activity and asking to keep the disputed domain name. However, the Respondent did not formally reply to the Complainant's contentions.

6. Discussion and Findings

Procedural Issue - Supplemental Filing

Before taking up the discussion on the merits of the case, the Panel first addresses the issue of the uninvited supplemental submission made by the Complainant to the Center.

On January 23, 2024, after admission by the Center of the Amended Complaint, the Respondent sent an informal email communication to the Center. Later the same day, the Complainant decided to send a supplemental submission.

Paragraphs 10 and 12 of the Rules grant the Panel sole discretion to determine the admissibility of Supplemental Filings (including further statements or documents) received from either Party.

Unsolicited supplemental filings are generally discouraged by the Rules. A party submitting an unsolicited supplemental filing should show some exceptional circumstances as to why it was unable to provide the information contained therein in its complaint or response (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.6). In this case, the Respondent having denied any fraudulent intent in his informal email of January 23, 2024, the Complainant has decided to transmit a supplemental filing providing additional information in the form of an alleged fraudulent e-mail sent using an e-mail address created from the disputed domain name. This email is incomplete and undated. Nothing indicates that the Complainant was unaware of this additional piece at the time the Complaint was filed. This information could easily have been provided in the Complaint. In any event, a simple copy of an email without date or context does not constitute valid and admissible evidence. The Panel finds that the Complainant has failed to demonstrate, or even address, the exceptional circumstances that would justify the Panel's consideration of the additional filing. The Panel did, however, quickly review

the Complainant's supplemental filing and considered that it would have been much more interesting to mention it in the Complaint itself and to reproduce it fully. Accordingly, the supplemental filing is not admitted.

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 trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the trade mark is reproduced within the disputed domain name. Although the addition of other terms, here "mail", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the trade mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

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 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 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 has registered a domain name composed of the trade mark SODEXO associated with the term "mail". The trade mark SODEXO is well known throughout the world, and is also highly distinctive. Thus composed, the disputed domain name will necessarily be perceived by the public as being affiliated with or authorized by the Complainant and obviously creates a risk of implied affiliation.

With regards to the use of the disputed domain name, it redirected to a parking page offering PPC links to competing websites. The Respondent has intentionally attempted to attract, for commercial gain, Internet users to this website, by creating a likelihood of confusion with the Complainant's trade mark as to the source, sponsorship, affiliation, or endorsement of this destination website. The Respondent concealed its identity at the time of registration.

Panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the Complainant's mark or otherwise mislead Internet users. [WIPO Overview 3.0](#), section 2.9. Particularly with respect to "automatically" generated PPC links, panels have held that a Respondent cannot disclaim responsibility for content appearing on the website associated with its domain name. Neither the fact that such links are generated by a third party such as a registrar or auction platform (or their affiliate), nor the fact that the Respondent itself may not have directly profited, would by itself prevent a finding of bad faith. [WIPO Overview 3.0](#), section 3.5. Having reviewed the available 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 Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Following the amended Complaint, the Respondent sent an informal email communication to the Center stating that it had never been involved in any illegal activity and asking to keep the disputed domain name but did not provide any evidence to raise any doubt on the finding of bad faith.

Having reviewed the record, 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 <mail-sodexo.com> be transferred to the Complainant.

/Benjamin Fontaine/
Benjamin Fontaine
Sole Panelist
Date: March 4, 2024