

ADMINISTRATIVE PANEL DECISION

Sodexo v. Domain Administrator, Sugarcane Internet Nigeria Limited
Case No. D2024-0400

1. The Parties

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

The Respondent is Domain Administrator, Sugarcane Internet Nigeria Limited, Nigeria.

2. The Domain Names and Registrar

The disputed domain names <mysodexomysavingsplan.com>, <sodexomysavingplan.com> and <sodexomysavingsplan.com> are registered with Cosmotown, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 29, 2024. On January 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 31, 2024, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on the same date, 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 February 5, 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 February 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 6, 2024.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on March 18, 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 was founded in 1966 and is specialized in food services and facilities management. The Complainant owns many trademark registrations for SODEXO worldwide such as the following:

1. International Trademark Registration No. 1240316, registered on October 23, 2014;
2. European Union Trademark Registration No. 008346462, registered on February 1, 2010; and
3. European Union Trademark Registration (figurative) No. 006104657, registered on June 27, 2008.

The disputed domain names were registered on January 18, 2024 and resolve to parking pages with Pay-Per-Click (“PPC”) links for a variety of services such as pension plans, retirement plans, savings plans, home care for seniors, etc.

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 names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant’s trademark is recognized as well known by prior UDRP panels. The disputed domain names are composed of the Complainant’s trademark adding to it the elements “my saving(s) plan” or the elements “my” and “my savings plan”. The Complainant’s trademark is the predominant part of the disputed domain names. The addition of terms does not eliminate confusing similarity.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain names. The Respondent is not commonly known by the disputed domain names. The Respondent is not licensed by the Complainant to use its trademark nor is it affiliated with the Complainant.

The Complainant contends that the disputed domain names were registered and are being used in bad faith. The Respondent must have had knowledge of the Complainant’s trademark as it is well known and fanciful. Bad faith registration and use were recognized when the disputed domain names resolve to parking pages containing PPC links.

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.

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 entirety of the mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "my", "saving(s)()" and "plan" may bear on the assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the 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 names. 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 names such as those enumerated in the Policy or otherwise. 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. In this regard, the Panel notes that composition of the disputed domain names incorporating the Complainant's trademark and the terms relevant to the Complainant carries a risk of implied affiliation.

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 must have been aware of the Complainant's trademark as the disputed domain names were registered 16 years after the registration of the Complainant's trademark and the Complainant's trademark is fanciful and well known. By using the disputed domain names for websites with PPC links, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites or other on-line location by creating a likelihood of confusion with the Complainant's mark. Such use constitutes bad faith pursuant to paragraph 4(b)(iv) of 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 names <mysodexomysavingsplan.com>, <sodexomysavingplan.com> and <sodexomysavingsplan.com> be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: March 21, 2024