

ADMINISTRATIVE PANEL DECISION

Sodexo v. Carolina Rodrigues, Fundacion Comercio Electronico
Case No. D2024-0794

1. The Parties

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

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <www.sodexonet.com> 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 February 21, 2024. On February 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 22, 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 (Registration Private) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 26, 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 amended Complaint on February 28, 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 March 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 26, 2024.

The Center appointed Catherine Slater as the sole panelist in this matter on April 3, 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, it is one of the largest companies in the world specializing in foodservice and facilities management with 430,000 employees serving 80 million consumers daily in 45 countries. The Complainant's consolidated revenues in 2023 were 22.6 billion euros.

From 1966 to 2008, the Complainant promoted its business under the mark SODEXHO, which was then simplified to SODEXO. The Complainant owns registered trademark rights for the SODEXO word mark and for various combined word and logo marks that incorporate the word SODEXO in many countries, including:

-European Union trade mark 8346462 for SODEXO (word mark) filed on June 8, 2009 and registered on February 1, 2010;

-International trade mark 964615 for SODEXO (stylized mark) filed on January 8, 2008 and registered on January 8, 2008;

-Panama trade mark registrations 167186-01, 167188-01, 167190-01, 167191-01, 167193-01, 167194-01, 167195-01, 167196-01, 167197-01, 167198-01, 167199-01, 167200-01, 167201-01 all for SODEXO (stylized mark) and registered on December 12, 2007.

The Complainant owns and uses various domain names corresponding to, or incorporating, SODEXO including <sodexo.com> and <sodexo.net>.

The Panel will hereinafter refer to SODEXO (both word and stylized mark) as the Complainant's mark.

The disputed domain name was registered on February 19, 2024. The Disputed Domain Name is used in relation to a "parking" webpage where links to various other websites are provided. These appear to be automatically generated by the software associated with the parking page.

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 composed of the Complainant's mark which is distinctive and fanciful, with additional elements "www" and "net". It says that the disputed domain name clearly refers to the Complainant's official site, the additional elements are not sufficient to distinguish it from the Complainant's mark, the Complainant's mark keeps its individuality and will be clearly perceived by consumers as the predominant part of the disputed domain name, the addition of generic elements does not prevent a finding of confusing similarity and the Respondent is typo squatting. It says that given the reproduction of the Complainant's mark the public will be confused into believing that the disputed domain name is linked to the Complainant and that this is particularly so since the Complainant operates the domain name <sodexonet.com>.

The Complainant further contends that the Respondent has no rights nor legitimate interests in the disputed domain name. It says the Respondent has no rights in SODEXO that pre-date the Complainant's rights, the Respondent was not commonly known by the disputed domain name and the Respondent does not have any affiliation, association, sponsorship or connection with the Complainant nor has it been authorized, licensed or otherwise permitted to register/use the disputed domain name.

The Complainant further contends that no person could choose the word SODEXO without seeking to create an association with the Complainant, that due to the well-known character and reputation of the

Complainant's mark the Respondent knew at registration that she had no rights or legitimate interests in the disputed domain name nor could lawfully use it, the use of the domain name is an intentional attempt to attract, for commercial gain, Internet users to the websites of the Complainant's competitors, and unrelated websites, by creating a likelihood of confusion with the Complainant's well-known mark. The Complainant relies on numerous prior UDRP cases determined by WIPO in which the well-known character of the Complainant's mark has been recognized.

Finally, the Complainant notes that there have been 20 prior UDRP cases determined by WIPO which have been brought by the Complainant against the Respondent in relation to domain names registered by her and containing the Complainant's mark and that in all those cases the Respondent has been ordered to transfer the domain name to the Complainant. The Complainant further notes that the Respondent has previously also been a respondent in "two hundred sixty-three prior UDRP cases involving over 400 domain names that contain third party marks to which she is not entitled", *Corning Incorporated v Domains By Proxy LLC/Carolina Rodrigues, Fundacion Comercio Electronico* WIPO Case No. [D2021-4225](#).

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 Complainant's mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is 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, "www" and "net", may bear on 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 name 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 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.

In the present case, the disputed domain name points to a parked page comprising links which, as discussed in more detail below, are intended to capitalize on the reputation and goodwill of the Complainant's mark. Such use of a domain name does not represent a bona fide offering. [WIPO Overview 3.0](#), section 2.9.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Considering the distinctive nature of the Complainant's mark and the extent of use of and reputation in it, it is inconceivable that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark. In fact, there is no doubt whatsoever that the Respondent knew of the Complainant's mark because the Respondent has previously targeted the Complainant through the repeated registration of domain names that are identical/similar to the Complainant's mark and such registrations have been challenged by the Complainant through the filing of complaints under the Policy.

In these circumstances, it is equally inconceivable that the Respondent registered the disputed domain name for any reason other than to take unfair advantage of, abuse, or otherwise engage in behaviour detrimental to the Complainant's trade mark. [WIPO Overview 3.0](#), section 3.1.

These findings lead the Panel to determine that the disputed domain name was registered in bad faith.

In terms of the use of the website operated by the Respondents at the disputed domain name, it comprises a series of "click through" links to other third-party websites. The Panel infers that some visitors, once at the Respondent's website will follow the provided links and "click through" to other sites which may offer products or services unrelated to the Complainant and where some of the sites in question may offer products or services which compete with those of the Complainant. It is well established that where a domain name is used to generate revenue in respect of "click through" traffic, and that traffic has been attracted because of the domain name's association with the Complainant, such use amounts to use in bad faith. In this regard see for example *Shangri-La International Hotel Management Limited v. NetIncome Ventures Inc.*, WIPO Case No. [D2006-1315](#); *Owens Corning v. NA*, WIPO Case No. [D2007-1143](#); *McDonald's Corporation v. ZusCom*, WIPO Case No. [D2007-1353](#); *Villeroy & Boch AG v. Mario Pingerna*, WIPO Case No. [D2007-1912](#); *Rolex Watch U.S.A., Inc. v. Vadim Krivitsky*, WIPO Case No. [D2008-0396](#). [WIPO Overview 3.0](#), section 3.5.

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 <www.sodexonet.com> be transferred to the Complainant.

/Catherine Slater/

Catherine Slater

Sole Panelist

Date: April 17, 2024