

ADMINISTRATIVE PANEL DECISION

Sodexo v. prerna group, PRERNA ENGINEERING EDUCATION GROUP
PRIVATE LIMITED

Case No. D2024-1458

1. The Parties

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

The Respondent is prerna group, PRERNA ENGINEERING EDUCATION GROUP PRIVATE LIMITED, India.

2. The Domain Name and Registrar

The disputed domain name <sodexonaps.online> 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 April 5, 2024. On April 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 9, 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 (Domains By Proxy, LLC DomainsByProxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 15, 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 April 16, 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 April 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default May 16, 2024.

The Center appointed Áron László as the sole panelist in this matter on May 24, 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, a French entity founded in 1966, is one of the world's largest foodservice and facilities management companies, with 430,000 employees serving 80 million consumers every day in 45 countries.

For the financial year 2023, consolidated sales reached EUR 22.6 billion, broken down by region: 46% in North America, 36% in Europe and 18% in the rest of the world.

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

The Complainant is the owner of the following trademarks (the "Trademarks"):

- Indian trademark registration SODEXO (figurative) No. 1635770, registered on December 28, 2007;
- International registration SODEXO (figurative) No. 964615 registered on January 8, 2008;
- International registration SODEXO (word) No. 1240316 registered on October 23, 2014;
- European Union trademark registration SODEXO (word) No. 008346462 registered on February 1, 2010.

The Complainant also owns numerous domain names corresponding to and/or containing the marks Sodexo or Sodexho. The Complainant promotes its activities under the following domain names, among others: <sodexo.com>, <uk.sodexo.com>, <sodexoprestige.co.uk>, <sodexo.fr>, <sodexoca.com>, <sodexousa.com>, <cn.sodexo.com>, <sodexho.fr>, <sodexho.com>.

The Complainant operates a website dedicated to the Indian market under the domain name <in.sodexo.com>.

The SODEXO / SODEXHO mark has a strong reputation and is widely known throughout the world. The Center has already recognised the reputation of the SODEXO / SODEXHO mark in many cases (for example, in *Sodexo v. chengao*, WIPO Case No. [D2023-1894](#)).

The disputed domain name was registered on March 18, 2024.

The disputed domain name resolves to an undeveloped WordPress webpage entitled "Momanto" and "Food Startup" where comments can be made. There is one, seemingly automatic comment on the page dating from March 21, 2024. No further activity can be seen on the 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 Trademarks are widely used and well known. The disputed domain name is confusingly similar to the Trademarks. The disputed domain name reproduces identically the Trademarks in combination with the element 'naps', which probably has no specific meaning for most Internet users. The element 'naps' in the disputed domain name is not capable of distinguishing it from the Complainant's Trademarks, since the SODEXO mark is dominant in the disputed domain name.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant expresses doubts as to the actual identity of the Respondent and claims that this may be a case of identity theft. The real Prerna Group would have no interest in registering the disputed domain name. The Respondent is not commonly known by the name “Sodexonaps”. The Complainant has not licensed or authorised the Respondent to use the Trademarks in any way, including the registration of the disputed domain name. The Respondent has no affiliation, association, sponsorship, or connection with the Complainant.

Lastly, the Complainant contends that the disputed domain name has been registered and is being used in bad faith. The Complainant’s Trademarks are fanciful and no one could legitimately choose this word or any variation of it unless they were trying to create an association with the Complainant’s activities and/or trademarks. Given the reputation of the Complainant’s Trademarks, the Respondent was obviously aware of the Complainant’s Trademarks when it registered the disputed domain name and knew that it could not lawfully use the Complainant’s Trademarks. The Respondent tries to make consumers believe that the disputed domain name is related to the Complainant’s official website by indicating that it is a “food startup”. It is clear that the aim of the Respondent is to attract potential consumers interested in the Complainant’s services and to confuse them as to the origin of the website. This in itself is evidence of bad faith, as it is done for commercial gain.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to “decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.”

Paragraph 4(a) of the Policy requires that a complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (i) the domain name registered by the respondent 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.

In view of the Respondent’s failure to submit a Response, the Panel shall decide this administrative proceeding on the basis of the Complainant’s undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences as it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations set forth in a complaint. However, the Panel may deny relief where a complaint contains mere conclusory or unsubstantiated arguments. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 4.3.

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 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 the SODEXO trademark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Complainant's trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, "naps") 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 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.

There is no evidence that the Respondent is commonly known by the disputed domain name. The Respondent has not been licensed or authorised by the Complainant to use the Complainant's SODEXO trademark or to register a domain name containing the trademark. There is no evidence that the Respondent is using the disputed domain name for a legitimate noncommercial or fair use, without any intention of commercial gain, as the disputed domain name resolves to an undeveloped WordPress template entitled "Momanto" and "Food Startup" where comments can be made but without any active content or tabs. Given the Complainant's reputation for the well-known SODEXO trademark and the Respondent has failed to produce any evidence to establish his rights or legitimate interests in the disputed domain name, the Panel finds that, in the circumstances of this case, the Respondent could not have acquired any rights or legitimate interests in the disputed domain name.

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.

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.

In the present case, the Panel notes that the disputed domain name incorporates the entirety of the Complainant's SODEXO mark with the addition of the element "naps". Given the distinctiveness of the Complainant's SODEXO mark and the length of time the Complainant has used it, the Panel finds that the Respondent was aware of the Complainant and its SODEXO mark when it registered the disputed domain name.

Although this is not a classic case of passive holding, as the website resolves to what appears to be a website featuring a basic WordPress page with the caption "Momanto" and "Food Startup" and without any active content the website appears to show only token use as opposed to actual fair use by the Respondent. On the other hand, the text "food startup" refers to goods and services in which the Complainant is interested. In these circumstances, the Panel finds that the use of the disputed domain name to display a WordPress page with some references to the Complainant's business does not prevent a finding of bad faith under the doctrine of passive holding in these circumstances and as such is evidence of bad faith registration and use. [WIPO Overview 3.0](#), section 3.3.

Further, UDRP panels have consistently found 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. [WIPO Overview 3.0](#), section 3.1.4.

It should also be noted that the identity of the Respondent was masked at the time the Complaint was filed.

In summary, the clear lack of rights or legitimate interests, coupled with the absence of any credible explanation for the Respondent's choice of domain name, the incorporation of the Complainant's trademark in the disputed domain name in its entirety, the reference to food products or food-related services ("food startup") on the website behind the disputed domain name, the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and the Respondent's initially concealed identity, leads the Panel to believe that the disputed domain name was registered and is being used in bad faith.

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 <sodexonaps.online> be transferred to the Complainant.

/Áron László/

Áron László

Sole Panelist

Date: June 7, 2024