

ADMINISTRATIVE PANEL DECISION

Sodexo v. Roland Bouret, KAEFER SE & Co. KG
Case No. D2024-1501

1. The Parties

The Complainant is Sodexo, France, represented by Areopage, United States of America.

The Respondent is Roland Bouret, KAEFER SE & Co. KG, Australia.

2. The Domain Name and Registrar

The disputed domain name <sodexo-groupe.store> is registered with Melbourne IT Ltd (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 9, 2024. On April 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 1, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 2, 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 May 7, 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 May 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 27, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 7, 2024.

The Center appointed Miguel B. O’Farrell as the sole panelist in this matter on June 7, 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 specialized in food and facilities management, claiming to have 430.000 employees serving daily 80 million consumers in 45 countries.

The Complainant owns a large number of trademark registrations in many jurisdictions for the trademarks SODEXO and SODEXHO, including:

International Trademark Registration No. 964615 SODEXO, filed on January 8, 2008, under priority of the French trademark registration No. 07 3 513 706 of July 16, 2007, renewed in 2018 in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45 protected in many countries including Australia, where the Respondent seems to be located;

International Trademark Registration No. 1240316 SODEXO, filed on October 23, 2014, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45;

European Trademark Registration No.008346462 SODEXO, filed on June 8, 2009, renewed in 2019 in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45;

Also, the Complainant owns numerous domain names including the trademark SODEXO, such as <sodexo.com>, <uk.sodexo.com>, <sodexo.fr>, and <sodexousa.com> which the Complainant uses to promote its activities.

The disputed domain name <sodexo-groupe.store> was registered on April 4, 2024, and does not resolve to an active webpage.

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 it is obvious that the Respondent registered the domain name <sodexo-groupe.store> with actual knowledge of the Complainant's rights in the SODEXO mark, probably for the purpose of creating confusion with Complainant's mark to divert or mislead third parties for Respondent's illegitimate profit.

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 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 “groupe” and “.store”, 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 “.store” Top-Level Domain (“TLD”) is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#), and so is the hyphen between “sodexo” and “groupe”.

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.

The Panel is satisfied that the Respondent must have been aware of the Complainant’s tradename and trademark SODEXO mentioned in section 4 above (Factual Background) when it registered the disputed domain name on April 4, 2024. By that time, the Complainant had for many years ago registered and intensely used the distinctive trademark SODEXO.

By registering the disputed domain name including the Complainant’s trademark SODEXO in its entirety separated by a hyphen the Respondent was targeting the Complainant and its business with the purpose of confusing Internet users and lead them to think that the relevant website belongs to or is endorsed by the Complainant with the intention to capitalize on the fame of the Complainant’s trademarks for its own benefit.

The fact that there is a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name, the nature of the disputed domain name, and the use of a privacy service, are indicative of bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)). The Panel finds that the Respondent registered and is using the disputed 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.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) 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 disputed 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 disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed 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 <sodexo-groupe.store> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: June 21, 2024