

## **ADMINISTRATIVE PANEL DECISION**

Sodexo v. Heather Gomez, Sodexo  
Case No. D2024-1573

### **1. The Parties**

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

The Respondent is Heather Gomez, Sodexo, United States of America.

### **2. The Domain Name and Registrar**

The disputed domain name <sodexoinco.com> is registered with Squarespace Domains II LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 15, 2024. On April 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 17, 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 (REDACTED FOR PRIVACY, Sodexo) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 18, 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 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 April 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 9, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 10, 2024.

The Center appointed María Alejandra López García as the sole panelist in this matter on May 16, 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 SODEXO, a French company, with presence at a worldwide level, founded in 1966 by Pierre Bellon, specialized in an ample range of food services and facilities management, with 430,000 employees serving daily 80 million consumers in 45 countries.

According to the Complainant's Fiscal 2023 Integrated Report, its revenues reached 22.6 billion euros, representing by region: 46% North America, 36 % Europe, and 18 % for the rest of the world. According with the Fortune Magazine, the Complainant is listed as one of "The world's Most Admired Companies".

The Complainant, formerly called SODEXHO ALLIANCE, from 1966 to 2008, promoted its business under the SODEXHO trademark and trade name. In 2008, the spelling of its trademark was simplified into SODEXO, including a logo change.

The Complainant also owns numerous domain names corresponding to and/or containing Sodexo or Sodexho, as <sodexo.com>, <uk.sodexo.com>, <sodexoprestige.co.uk>, <sodexo.fr>, <sodexoca.com>, <sodexousa.com>, <cn.sodexo.com>, <sodexho.fr> and <sodexho.com>.

The Complainant owns among others, the following trademark registrations:

-International Trademark for SODEXO (and design), Reg. No. 964615 registered on January 8, 2008, and in force until January 8, 2028, in International Classes ("ICs") 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45.

-International Trademark for SODEXO (word mark), Reg. No. 1240316, registered on October 23, 2014, and in force until October 23, 2024, in ICs 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45.

-European Union Trademark for SODEXO (word mark), Reg. No. 008346462, filed on June 8, 2009, registered on February 1, 2010, and in force until June 8, 2029, in ICs 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45.

The Panel notes that SODEXO is a worldwide and well-known trademark, which status, has been also recognized by previous panels, as in e.g.: *Sodexo v. Contact Privacy Inc. Customer 1247189803 / NorAm Accounts Receivable*, WIPO Case No. [D2020-1683](#); *SODEXO v. Super Privacy Service LTD c/o Dynadot / Zhichao*, WIPO Case No. [D2020-1762](#); *SODEXO v. Ashutosh Dwivedi, Food & Beverages*, WIPO Case No. [D2020-2686](#); *Sodexo v. Domains By Proxy, LLC, DomainsByProxy.com / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-3085](#); *Sodexo v. Domain Administrator, Fundacion Privacy Services LTD.*, WIPO Case No. [D2021-0472](#); *Sodexo v. Host Master, Transure Enterprise Ltd.*, WIPO Case No. [D2022-1140](#); *Sodexo v. VEERA RAGHAVA*, WIPO Case No. [D2023-1370](#); *Sodexo v. Thomas Allain*, WIPO Case No. [D2024-1218](#); *SODEXO v. GengZhiGang*, WIPO Case No. [D2024-0822](#).

The disputed domain name was registered on March 28, 2024, and resolves to an inactive "under construction" parking page sponsored by the Registrar.

#### 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, in relation to the first element of the Policy, the Complainant essentially contends that the disputed domain name is confusingly similar to the Complainant's trademark SODEXO; that the addition of the element "inco" is inoperative for its distinction.

In relation to the second element of the Policy, the Complainant contends that the disputed domain name impersonates an allegedly Complainant's employee under the name "Heather Gomez from Sodexo"; that certainly the Complainant it is not behind the registration of the disputed domain name; that the Respondent it is not commonly known by the disputed domain name; that the Respondent does not have any affiliation, association, sponsorship or connection with the Complainant and has not been authorized, licensed or otherwise permitted by the Complainant or by any subsidiary or affiliated company to register and use the disputed domain name.

In relation to the third element of the Policy, the Complainant essentially contends that given the well-known status and reputation of the SODEXO's trademark, the Respondent must likely knew about the Complainant's existence at the time of the registration of the disputed domain name, and that such knowledge is considered as an inference of bad faith; that even if the disputed domain name has been recently registered and has remained passively held, does not prevent its bad faith in accordance with the passive holding doctrine.

The Complainant also contends that given the several attacks that has had to face recently, strongly fears potentially fraudulent activities from the use of the disputed domain name, i.e.: to perpetrate email scam sent to its clients requesting payment of false invoices on fake Sodexo bank accounts or to order products to the Complainant's clients for considerable amounts by impersonating the Complainant's employees.

## **B. Respondent**

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

## **6. Discussion and Findings**

In accordance with paragraph 4(a) of the Policy, the Complainant must satisfy each of the three following elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

To succeed, a complainant must meet all the three elements of the Policy, see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 4.2. In the present case, no Response or any communication has been submitted by the Respondent, which would not by itself mean that the Complainant is deemed to have prevailed, see [WIPO Overview 3.0](#), section 4.3. Therefore, this Panel shall analyze the evidence submitted by the Complainant and decide this dispute under the "balance of probabilities" or "preponderance of the evidence" standard, as set out in paragraph 14 and 15(a) of the Rules, and [WIPO Overview 3.0](#), section 4.2.

### **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 the SODEXO trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

Although the addition of other terms here, “inco”, 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 Complainant’s SODEXO trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

As for the applicable generic Top-Level Domain “.com”, it is well established that such element may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark, as it is a technical requirement of registration. [WIPO Overview 3.0](#), section 1.11.1.

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. [WIPO Overview 3.0](#), section 2.1. “The absence of rights or legitimate interests is established if a complainant makes out a *prima facie* case and the respondent enters no response.”, see *Sodexo v. VEERA RAGHAVA*, WIPO Case No. [D2023-1370](#).

Nothing in the record suggests that the Respondent has become commonly known by the disputed domain name; or that the Complainant granted an authorization to the Respondent for the registration and use of the disputed domain name. In fact, the Respondent has registered the disputed domain, reproducing a well-known trademark as SODEXO combine it with an additional term, to generate a parked page without active content, which does not constitute a bona fide offering, or a fair use, suggests an endorsement by the Complainant, misleading the Internet users, facts that, to this Panel, cannot confer rights or legitimate interests in accordance with paragraph 4(c)(i) and (iii) of the Policy. See *Sodexo v. Thomas Allain*, WIPO Case No. [D2024-1218](#) and *Sodexo v. Thomas Stuart*, WIPO Case No. [D2024-0874](#).

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**

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, given the disputed domain name’s composition, where a well-known trademark as SODEXO, which enjoys a worldwide presence, including on the Internet; the Complainant’s trademark rights predates the registration date of the disputed domain name, to this Panel, it is evident that the Respondent knew about the Complainant’s business and SODEXO trademark at the time of the registration of the disputed domain name, therefore using it in bad faith. [WIPO Overview 3.0](#), section 3.2.2.

In relation with the inactivity of the website, 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 notoriety, distinctiveness, worldwide reputation of the Complainant’s SODEXO trademark, and the composition of the disputed domain name, the Complainant’s un rebutted claim that the Respondent registered the disputed domain name using the name of one of their employees and the un rebutted Complainant’s allegations, given the lack of the Respondent’s Response, 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 <sodexoinco.com> be transferred to the Complainant.

*/María Alejandra López García/*

**María Alejandra López García**

Sole Panelist

Date: May 28, 2024