

ADMINISTRATIVE PANEL DECISION

SODEXO v. Denis kostic

Case No. D2024-2970

1. The Parties

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

The Respondent is Denis kostic, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <sodexo.cam> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 22, 2024. On July 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 23, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 11, 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 August 13, 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 August 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 11, 2024.

The Center appointed José de Pierola as the sole panelist in this matter on September 19, 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 one of the largest French companies in the world specialized in food services and facilities management, founded in 1966, with 430.000 employees serving daily 80 million consumers in 45 countries. The Complainant is one of the largest employers worldwide.

The Complainant's revenue for fiscal year 2023 reached 22,6 billion euros which represent by region: 46% North America, 36% Europe, and 18% for the rest of the world. Additionally, the Complainant is listed as one of "[t]he world's Most Admired Companies" by Fortune Magazine.

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

The Complainant is the owner of numerous trademark registrations for SODEXHO and SODEXO, as per trademark certificates submitted as annexes to the Complaint:

- International trademark registration No. 964615 for SODEXO and design, filed and registered on January 8, 2008, and renewed in 2018, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.
- International trademark registration No. 1240316 for SODEXO, filed and registered on October 23, 2014 in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.
- European Union registration No. 008346462 for SODEXO, filed on June 8, 2009, registered on February 1, 2010, and renewed in 2019, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.
- European Union registration No. 006104657 for SODEXO and design, filed on July 16, 2007, registered on June 27, 2008, and renewed in 2017, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.
- International trademark registration No. 689106 for SODEXHO and design, filed and registered on January 28, 1998, and renewed in 2018, in international classes 16, 36, 37, 39, 41 and 42.
- International trademark registration No. 694302 for SODEXHO and design, filed and registered on June 22, 1998, and renewed in 2018, in international class 9.

The Complainant is also de owner of several domain names, as per the information submitted as annexes to the Complaint:

- <sodexo.com>, registered on October 9, 1998.
- <sodexoprestige.co.uk>, registered on June 29, 2007.
- <sodexo.fr>, registered on January 14, 2008.
- <sodexoca.com>, registered on March 8, 2001.
- <sodexousa.com>, registered on August 23, 2000.
- <sodexho.fr>, registered on January 13, 2004.
- <sodexho.com>, registered on October 23, 1995.

The Complainant uses the above-mentioned domain names as e-commerce websites, to promote and offer its services on their offices in Europe, United States, Canada, United Kingdom, and France.

The disputed domain name was registered on July 19, 2024, and it resolved to an Registrar parking page with pay-per-click links.

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 similar to its current trademarks SODEXO and SODEXHO, to the point to creating confusion, and thus the unauthorized registration of the disputed domain name by the Respondent and its passive holding, probably in the aim of fraudulent uses, are for the purpose of commercial gain and then constitute bad faith registration and use.

In this regard, the disputed domain name entirely reproduces the most distinctive part of the Complainant's previous trademarks SODEXO and its variations.

The disputed domain name reproduces the current trademark SODEXO in its entirety.

The Complainant alleges that given the well-known character and reputation of the SODEXO and SODEXHO trademark, the Respondent knew of its existence when he registered the disputed domain name and knew that he had no rights or legitimate interests in the disputed domain name. It is obvious that the Respondent registered the disputed domain name with actual knowledge of the Complainant's rights in the SODEXO mark very likely for the purpose of creating confusion with the Complainant's mark to divert or mislead third parties for the Respondent's illegitimate profit.

The Respondent reproduces the Complainant's current registered trademarks SODEXO in the disputed domain name without any license or authorization from the Complainant, which is strong evidence of the lack of legitimate interests.

The disputed domain name is inactive, which indicates that even if the disputed domain name, which has been recently created, does not presently have any active content, a passive holding of a domain name does not prevent a finding of bad faith.

None of the circumstances which set out how a Respondent can prove rights or legitimate interests in the disputed domain name is present in the case at issue.

The Complainant which has recently faced several attacks, strongly fears a possible fraudulent use of the disputed domain name, especially to perpetrate email scam sent to its clients requesting payment of false invoices on fake Sodexo bank accounts or to order products to Complainant's clients for considerable amounts by impersonating Complainant's employees.

The Respondent has no rights nor legitimate interests in the disputed domain name as he has no rights on SODEXO as corporate name, trade name, shop sign, mark or domain name that would be prior to the Complainant's rights on SODEXO. Moreover, 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 the concerned domain name and to use it.

Furthermore, the Complainant claims that the disputed domain name was registered in bad faith, in light of the following arguments:

First, the Complainant alleges that the Complainant and its trademarks are so renowned, that is clear that the Respondent had awareness of such intellectual property rights prior to requesting the registration of the disputed domain name. Taking into account the widespread reputation of the Complainant's trademarks, it is evident that the decision to incorporate trademark SODEXO in the disputed domain name implies the

Respondent's deliberate effort to capitalize on the trademark's established reputation and goodwill, which is an indication of bad faith.

In second place, the Sodexo Group is widely established in many countries including the United States, among others, where the Respondent is located, which is indicative of bad faith, taking into account that this case involves a renowned trademark.

In third place, the disputed domain name incorporates the SODEXO trademark in its entirety, with the new generic Top-Level Domain ("gTLD") ".cam". The use of the new gTLD ".cam" is obviously a typosquatting practice intended to create confusing similarity between Complainant's mark SODEXO and domain name <sodexo.com>, and Respondent's disputed domain name, and thus the public will obviously believe that this domain name comes from Sodexo group.

In fourth place, the disputed domain name remains inactive, and the passive holding of a domain name that incorporated a renowned trademark in the disputed domain name cannot be taken as a bona fide offering of services. Also, this inactivity does not establish any rights or legitimate interests in the disputed domain names and, on the contrary, this passive holding suggests bad faith.

B. Respondent

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

6. Discussion and Findings

In the absence of a formal Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

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

The Panel will further analyze the potential concurrence of the above circumstances.

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 identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

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 would not prevent a finding of bad faith under the doctrine of passive holding. [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.cam> be transferred to the Complainant.

/José de Pierola/

José de Pierola

Sole Panelist

Date: September 30, 2024