

ADMINISTRATIVE PANEL DECISION

SODEXO v. Jhon Regalado
Case No. D2024-3003

1. The Parties

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

The Respondent is Jhon Regalado, Peru.

2. The Domain Name and Registrar

The disputed domain name <promocionsodexo.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 July 24, 2024. On July 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 24, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 25, 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 July 30, 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 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 26, 2024.

The Center appointed Miguel B. O’Farrell as the sole panelist in this matter on September 6, 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, SODEXO (before called SODEXHO ALLIANCE) is a French company founded in 1966 that claims to be one of the largest companies in the world specialized in food services and facilities management, with 430.000 employees worldwide, serving daily 80 million consumers in 45 countries.

For fiscal year 2023, the consolidated revenues of the Complainant reached EUR 22,6 billion which represent by region: 46% North America, 36 % Europe, and 18 % for the rest of the world.

From 1966 to 2008, the Complainant promoted its business under the SODEXHO mark and trade name. In 2008, the Complainant simplified the spelling of its mark and name to SODEXO under which it provides a wide range of on-site services.

The SODEXO / SODEXHO mark is continuously and extensively used and registered worldwide. Among many more, the Complainant is the owner of the following trademark registrations.

International Trademark Registration No. 964615 SODEXO (Design), registered on January 8, 2008, in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45.

European Trademark Registration No.008346462 SODEXO, registered on February 1, 2010, in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45.

The Complainant also owns numerous domain names corresponding to and/or containing "sodexo" which it uses to promote its activities, among others, <sodexo.com>, <uk.sodexo.com>, <sodexoprestige.co.uk>, <sodexo.fr>.

The mark SODEXO is used in connection with a large range of activities, including restaurant and catering services to companies, hospitals, schools, universities and a range of other organizations. In addition to traditional food services, the Complainant's expertise includes retail services, food delivery, meal and food vouchers as well as digital food ordering services. The Complainant's facility management services combine reception, hospitality, cleaning services, and infrastructure maintenance services.

The disputed domain name was registered on July 22, 2024, and currently resolves to an inactive webpage, which shows the word "Forbidden".

5. Parties' Contentions

A. Complainant

The Complainant claims that it has become aware that the Respondent has registered the disputed domain name and is using it as a page in Spanish proposing promotions to consumers if they complete a form, namely with their email address: <http://formulario.promocionsodexo.com/sorteo.html>

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.

The Respondent was not commonly known by the disputed domain name prior to the adoption and use by the Complainant of the corporate name, business name and mark SODEXO / SODEXHO.

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 disputed domain name and to use it.

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 trademark SODEXO associated to the Spanish word “promoción”, which is very close to the English Word “promotion”, internationally understood.

The expression “promoción sodexo” therefore refers to a Complainant’s official website for promotion of the Complainant’s services.

The unauthorized registration and use of the disputed domain name by the Respondent to attract Internet users to a false website looking like an official website of the Complainant, is for the sole purpose of achieving commercial gain and constitutes bad faith registration and use.

Finally, the Complainant requests the Panel to issue a decision ordering that the disputed domain name be transferred to the Complainant.

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, “promocion” 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.

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 name and trademark SODEXO mentioned in section 4 above (Factual Background) when it registered the disputed domain name on July 22, 2024.

As indicated by previous Panels, the Complainant's SODEXO trademark enjoys significant reputation throughout the world, making it rather unlikely for anyone to register a domain name comprising such a widely known and distinctive word out of mere coincidence. *Sodexo v. Huade Wang*, WIPO Case No. [D2022-1446](#).

In accordance with section 3.1.4 of [WIPO Overview 3.0](#), the Panel considers that the inclusion of the Complainant's SODEXO trademark in the disputed domain name creates a presumption of bad faith registration. The addition of the term "promocion" in the disputed domain name tends to strengthen the confusion between the Complainant's trademark and the disputed domain name, as it is the Spanish translation and almost identical to the English word "promotion", the meaning of which is well known to the majority of Internet consumers. Clearly, the disputed domain name conveys the idea that it refers to a Complainant's official website for promotion of the Complainant's services, which is false.

The Respondent, when registering the disputed domain name, has targeted the Complainant's business and its trademark SODEXO with the intention to confuse Internet users and capitalize on the fame of the Complainant's trademark 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 is also a significant factor to consider that the disputed domain name was registered in bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)). 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy and that the requirements of paragraph 4(a)(iii) of the Policy have been fulfilled.

Whilst the disputed domain name does not currently seem to direct to an active website, 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 <promocionsodexo.com> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: September 20, 2024