

ADMINISTRATIVE PANEL DECISION

SODEXO v. Sebastian zapata

Case No. D2024-3217

1. The Parties

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

The Respondent is Sebastian zapata, Chile.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 6, 2024. On August 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 6, 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 Withhel for Privacy ehf Kalkofnsvegur 2) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 7, 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 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 August 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 11, 2024.

The Center appointed Christian Schalk as the sole panelist in this matter on September 12, 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. The language of the proceedings is English.

4. Factual Background

The Complainant was founded in 1966 and describes itself as one of the largest company in the world which is specialized in food services and in facilities management. It has 430.000 employees serving daily 80 million consumers in 45 countries.

In 2023, Complainant reached consolidated worldwide revenues of more than EUR 22 billion. The Complainant is listed by Fortune Magazine as one of “The world’s most Admired Companies”.

The Complainant owns various trademarks featuring the terms SODEXO or SODEXHO on all continents of the world, among others:

- International Trademark Registration (IR Mark) No. 689106 for SODEXHO (with chain of stars device), registered on January 28, 1998, registered for services in International classes 16, 36, 37, 39 41 and 42 in more than 30 jurisdictions in Europe, Northern Africa, Central- and in East Asia;
- International Trademark Registration (IR Mark) No. 964615 for SODEXO (with star device), registered on January 8, 2008, registered for goods and services in International classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45 in more than 30 jurisdictions in Europe, North America, Northern Africa, Central- and in East Asia;
- European Union Trademark No. 008346462 for SODEXO, registered for goods and services on June 8, 2009 in International classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45;

The Complainant owns a number of domain names featuring the term SODEXO, such as <sodexo.com>, <sodexo.fr>, <sodexho.com>, <sodexoprestige.co.uk> and <sodexousa.com>.

Several UDRP Panelists have recognized the well-known character of the Complainant's SODEXO / SODEXHO trademarks, for instance, in

- *Sodexo v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1580](#);
- *Sodexo v. Contact Privacy Inc. Customer 1247189803 / NorAm Accounts Receivable*, WIPO Case No. [D2020-1683](#);
- *Sodexo v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2021-0472](#);
- *Sodexo v. Carolina Rodrigues, Fundacion Comercio Electronico*; WIPO Case No. [D2021-0485](#);
- *Sodexo v. Host Master, Transure Enterprise Ltd*, WIPO Case No. [D2022-1140](#);
- *Sodexo v. chengao*, WIPO Case No. [D2023-1894](#).

The Respondent registered the disputed domain name on August 3, 2024. The disputed domain name resolves to a parking website which featured links to home delivery services featuring links to competitors of the Complainant, such as, for example, “HelloFresh”, “Saveurs et Vie” or Gaulupeu and also to personal recruiting pages for restaurant services, like “Le Figaro emploi”.

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.

Especially, the Complainant alleges that the disputed domain name is identical or confusingly similar to the Complainant's SODEXO and SODEXHO trademarks. The Complainant states that the disputed domain name consists of the combination of its SODEXO trademark and the term "recluto". The latter corresponds to the English word "recruit". The Complainant continues that the expression "RECLUTO SODEXO" therefore refers to his official website proposing job ads and that the addition of the term "recluto" to his SODEXO mark does not have any impact on the distinctive character of the latter. In this context, the Complainant refers to a number of decisions where the panel recognized that the addition of a generic or descriptive term to a trademark will not alter the fact that the disputed domain name is confusingly similar with the trademark in question, for instance, *Terex Corporation v. Texas International Property Associates - NA NA*, WIPO Case No. [D2008-0733](#); *Billabong International Limited, GSM (Operations) Pty Ltd, GSM (Trademarks) Pty Ltd, GSM (Europe) Pty Ltd, GSM (NZ Operations) Ltd v. Mookie Lei*, WIPO Case No. [D2008-0101](#); *Revlon Consumer Products Corporation v. Laurent D. Morel*, WIPO Case No. [D2002-0215](#); *Viacom International Inc. v. Erwin Tan*, WIPO Case No. [D2001-1440](#); *Nokia Corporation v. Nokiagirls.com a.k.a. IBCC*, WIPO Case No. [D2000-0102](#); *eAuto L.L.C. v. Net Me Up*, WIPO Case No. [D2000-0104](#).

The Complainant concludes therefore, that the public will obviously believe that the disputed domain name resolves to the Complainant's official website proposing job ads there. The Complainant reports in this context that he recently received also several attacks and also strongly fears a fraudulent use of the disputed domain name to perpetrate email scam sent to his clients requesting payment of false invoices on fake bank accounts.

The Complainant alleges further that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant argues in this context that the Respondent has no rights in the term SODEXO as a corporate name, trade name, shop sign or domain name and that the Respondent was not commonly known by the terms SODEXO or SODEXHO. The Complainant states in addition that the Respondent does not have any affiliation, association, sponsorship or connection with the Complainant and not been authorized, licensed or otherwise permitted by the Complainant or by any of his group companies to register the disputed domain name and use it.

The Complainant alleges also that the disputed domain name was registered and is being used in bad faith. The Complainant argues that the term SODEXO is a purely fanciful term and nobody could legitimately choose this word or any variation thereof, unless seeking to create an association with the Complainant's activities and his SODEXO mark. Given the well known character of the Complainant's SODEXO mark, as it has been confirmed by WIPO Panelists in a number of domain name cases under the UDRP, the Complainant draws the conclusion that the Respondent knew its existence when he registered the disputed domain name and therefore, was aware of the fact that he had no rights or legitimate interests in the disputed domain name and thus, cannot lawfully use it. The Complainant cites in this context among others *LEGO Juris A/S v. Reiner Stotte*, WIPO Case No. [D2010-0494](#); *Caixa D'Estalvis I Pensions de Barcelona ("La Caixa") v. Eric Adam*, WIPO Case No. [D2006-0464](#); *Accor, So Luxury HMC v. Youness Itsmail*, WIPO Case No. [D2015-0287](#); *Sodexo v. Shahzan - PrivacyProtect.org*, WIPO Case No. [D2013-1308](#) in order to support his arguments.

The Complainant then continues that the Respondent is using the disputed domain name by exploiting the confusion with his well known SODEXO / SODEXHO marks in order to attract Internet users and to incite them to click on commercial links of the Complainant competitors. This, so the Complainant, constitutes an intentional attempt to attract for commercial gain, Internet users to the sites of the Complainant's competitors by creating a likelihood of confusion with the well-known mark SODEXO. As regards the use of a domain name in connection with pay-per-click parking websites, the Complainant refers to WIPO Overview of WIPO Panel Views on

Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") and section 2.9 therein.

The Complainant explains further that Internet users who have a legitimate interest in the SODEXO group could have been then exposed to these parking services proposing advertising links to websites of Complainant's competitors. The Complainant believes that this may not only be confusing for the consumers, but this can also create a dilution of his trademark SODEXO. Another indication for bad faith would be the continuous threat of an abusive use of the disputed domain name, for instance, for phishing activities.

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, see [WIPO Overview 3.0](#), section 1.7.

The Panel finds that the Complainant has established trademark rights in the SODEXO mark and that the entirety of the mark is reproduced within the disputed domain name.

The addition of terms to a trademark does not prevent a finding of confusing similarity where the trademark remains recognizable within the domain name (see [WIPO Overview 3.0](#), section 1.8). Therefore, the addition of terms such as "recluto" (which is a term in Spanish language corresponding to the English word "recruit") in the disputed domain name cannot prevent a finding of confusing similarity.

Accordingly, the disputed domain name is confusingly similar to the SODEXO marks for the purposes of the Policy (see [WIPO Overview 3.0](#), section 1.7).

Furthermore, the ".lat" generic Top-Level Domain ("gTLD") suffix in the disputed domain name does not affect the determination that the disputed domain name is at least confusingly similar to the SODEXO marks in which the Complainant has rights (see also *Compagnie Générale des Etablissements Michelin v. Trendimg*, WIPO Case No. [D2010-0484](#); *Köstrizer Schwarzbierbrauerei v. Macros-Telekom Corp.*, WIPO Case No. [D2001-0936](#); and *Laboratoire Pharmafarm (SAS) v. M. Sivaramakrishnan*, WIPO Case No. [D2001-0615](#) and cases cited therein).

For all these reasons, the Panel finds that the Complainant has fulfilled the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Based on the submissions and materials filed in this case, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, UDRP 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 (see [WIPO Overview 3.0](#), section 2.1).

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.

However, the Respondent has not provided any evidence of circumstances specified in paragraph 4(c) of the Policy or of any other circumstances giving rise to rights to or legitimate interests in the disputed domain name. Specifically, the Panel finds no evidence that the Respondent has been or is commonly known by the disputed domain name. The Respondent is neither affiliated with the Complainant nor has a license to use its trademark. The Respondent has also not rebutted the Complainant's allegations and has not provided the Panel with any explanations as to the Respondent's rights or legitimate interests.

According to the printout of the website to which the disputed domain name resolved on August 6, 2024, forming part of the case file presented before the Panel, there are several links listed on the website to which the disputed domain name resolved. These links lead to websites of competitors of the Complainant, such as "HelloFresh", "Saveurs et Vie" or "Gaulupeu" and also to personal recruiting pages for restaurant services, like "Le Figaro emploi". The only purpose for such behavior is, to do harm to the Complainant's business. Internet users searching for the Complainant's services and either typing the disputed domain name in their Internet browser or clicking on respective references revealed by Internet search engines would get directed to the website to which the disputed domain name resolves and may then tend to request the services of such competitors instead of those offered by the Complainant. Such use of the disputed domain name does not constitute a legitimate interest.

Furthermore, there is also a strong likelihood that the Respondent gains some income by each click on these links by Internet users. Prior UDRP panels have generally recognized that the use of a domain name to post parking and landing pages or pay-per-click ("PPC") links may be permissible in some circumstances, but would not of itself confer rights or legitimate interests arising from a "bona fide offering of goods or services". An example of such permissible use is, where domain names consisting of dictionary or common words or phrases support posted PPC links genuinely related to the generic meaning of the domain name at issue (see, for instance, *Trade Me Limited v. Vertical Axis Inc.*, WIPO Case No. [D2009-0093](#); *Mobile Communication Service Inc. v. WebReg, RN*, WIPO Case No. [D2005-1304](#); and *Media General Communications, Inc. v. Rarenames, WebReg*, WIPO Case No. [D2006-0964](#)).

However, as it has been decided already by previous UDRP panels, that PPC parking pages which are built around a trademark cannot constitute a bona fide offering of goods or services pursuant to paragraph 4(c)(i) of the Policy, nor do they constitute a legitimate noncommercial or fair use pursuant to paragraph 4(c)(iii), see *Ustream.TV, Inc. v. Vertical Axis, Inc.*, WIPO Case No. [D2008-0598](#); *mVisible Technologies, Inc v. Navigation Catalyst Systems, Inc.*, WIPO Case No. [D2007-1141](#); *Mobile Communication Service Inc v. WebReg, RN*, WIPO Case No. [D2005-1304](#); *Gerber Products Co. v. LaPorte Holdings*, WIPO Case No. [D2005-1277](#); *Asian World of Martial Arts Inc. v. Texas International Property Associates*, WIPO Case No. [D2007-1415](#); *Champagne Lanson v. Development Services/MailPlanet.com*, WIPO Case No. [D2006-0006](#); and *The Knot, Inc. v. In Knot we Trust Ltd.*, WIPO Case No. [D2006-0340](#). This is the case here, where the disputed domain name incorporates the Complainant's trademark and the PPC links capitalize on the reputation and goodwill associated therewith. These links pretend to lead Internet users to services which are also offered by the Complainant but such Internet users arrive in fact then on websites where competing services are offered.

Therefore, the Complainant has fulfilled the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Complainant contends that the Respondent registered and is using the disputed domain name in bad faith. The Policy, paragraph 4(b) sets forth four non-exclusive circumstances, which evidence bad faith registration and use of domain names:

- (i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is owner of the trademark or service mark or to a competitor of the complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.

According to the materials brought before the Panel, the Panel finds that the disputed domain name has been registered and is being used by the Respondent in bad faith.

The Panel finds that the Respondent must have been aware of the Complainant's trademark and its services when it registered the disputed domain name. A simple search on a search engine such as Google or Bing reveals many references to the Complainant already on the first two pages of search results, which would have made the Respondent immediately aware of the Complainant. Moreover, the Respondent used the disputed domain name in order to connect it to a website featuring links which referred to services which are also offered by the Complainant. Therefore, it is not possible to conceive of a plausible situation in which the Respondent would have been unaware of the Complainant's brands at the time of registration of the disputed domain name (see also *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The Respondent's behavior constitutes also use of the disputed domain name in bad faith.

The Respondent used the disputed domain name to attract Internet users to website which provides links which then lead such users to competitors of the Complainant such as "HelloFresh", "Saveurs et Vie" or "Gaulupeu" and also to personal recruiting pages for restaurant services, like "Le Figaro emploi". Internet users arriving on the websites of the Complainant's competitors could then tend to request their services instead the services of the Complainant. Such behavior can damage the Complainant's business and constitutes already the use of the disputed domain name in bad faith.

In addition, there is also the risk that websites such as the one to which the disputed domain name resolves could be used by the Respondent himself or with his consent for illegitimate actions such as phishing purposes or any other purposes such as fraud where Internet users could erroneously make believe that they are dealing with the Complainant or an entity somehow related to the Complainant while this is not the case. Given the Complainant's reputation and its awareness (see, for instance, *Sodexo v. Contact Privacy Inc. Customer 1247189803 / NorAm Accounts Receivable*, WIPO Case No. [D2020-1683](#); *Sodexo v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2021-0472](#); *Sodexo v. Carolina Rodrigues, Fundacion*

Comercio Electronico, WIPO Case No. [D2021-0485](#); *Sodexo v. Host Master, Transure Enterprise Ltd*, WIPO Case No. [D2022-1140](#) and *Sodexo v. chengao*, WIPO Case No. [D2023-1894](#)), Internet users could be prepared to pay for searches offered there or look for job offers and may then either receive no services or services of low quality or even having harmful effect which would then seriously damage the Complainant's reputation.

The Complainant is listed among the "The world's most Admired Companies" by Fortune, which is a leading publication in the field of business and economics. Any damage to its reputation which could be caused by the disputed domain name and the way it is used by the Respondent or with his consent, could lead to a removal from such list and would require the Complainant to invest substantial efforts including also financial expenditures to regain such a position in the market again.

Therefore, the Panel concludes that the Respondent's primary motive in relation to the registration and use of the disputed domain name was to capitalize on, or otherwise take advantage of, the Complainant's trademark rights, by creating a likelihood of confusion with the Complainant's mark with the intent to unlawfully profit therefrom and to disrupt his business (see also [WIPO Overview 3.0](#), section 3.4).

Accordingly, in light of the circumstances, the Panel finds that the Respondent has engaged in the bad faith registration and use of the disputed domain name and therewith the establishment also of 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 <reclutosodexo.lat> be transferred to the Complainant.

/Christian Schalk/

Christian Schalk

Sole Panelist

Date: September 30, 2024