

ADMINISTRATIVE PANEL DECISION

Sodexo v. Sodexo Rose, Sodexo
Case No. D2024-3221

1. The Parties

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

The Respondent is Sodexo Rose, Sodexo, United States of America.

2. The Domain Name and Registrar

The disputed domain name <sodexo-com.net> 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 August 6, 2024. On August 7, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 7, 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 August 9, 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 12, 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 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 2, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 4, 2024.

The Center appointed Miguel B. O'Farrell as the sole panelist in this matter on September 13, 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.
- International Trademark Registration No. 689106 SODEXO (Design) registered on January 28, 1998, based on the French trademark registration n° 96654774 of December 10, 1996, in classes 16, 36, 37, 39, 41 and 42.
- European Union 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 disputed domain name was registered on August 6, 2024, and resolves to a website which indicates: "We are under construction. Please check back for an update soon".

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 Respondent registered the disputed domain name under the name "Sodexo Rose", "Sodexo" obviously for the purpose of impersonating the Complainant. This is an identity theft.

The Respondent attempts to impersonate the Complainant in an attempt to make it appear that the disputed domain name registration is legitimate.

The Respondent has no rights nor legitimate interests in the disputed domain name and 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.

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.

The Respondent not only knows the SODEXO mark but wants to benefit of its reputation.

It is obvious that the Respondent registered the domain name with actual knowledge of the Complainant's rights in the SODEXO mark very likely for the purpose of creating confusion with Complainant's mark to divert or mislead third parties for Respondent's illegitimate profit.

The identity of the disputed domain name with Complainant's name and mark are intended to divert or mislead potential web users from the Complainant's website they are actually trying to visit.

The unauthorized registration of the domain name by the Respondent and its passive holding, likely in the aim of fraudulent uses, are for the purpose of commercial gain and then constitute bad faith registration and use.

The fraudulent means used by the Respondent to register the disputed domain name impersonating the Complainant also obviously demonstrates that the Respondent registered the disputed domain name in bad faith.

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, "-com" 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 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 agrees with the Complainant’s claim that the Respondent provided a false name and has used the Complainant’s name, SODEXO, to purportedly establish a legitimate appearance in connection with the disputed domain name.

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 trademark SODEXO mentioned in section 4 above (Factual Background) when it registered the disputed domain name on August 6, 2024. By that time, the Complainant had long ago registered and intensely used the trademark SODEXO in many jurisdictions.

The Panel also finds that by registering the disputed domain name which includes the Complainant’s trademark SODEXO in its entirety the Respondent was targeting the Complainant and its business. The addition of the “-com” only contributes to confuse Internet users and leads them to think that the Respondent’s website belongs to or is endorsed by the Complainant with the intention to capitalize on the fame of the Complainant’s trademark for its own benefit.

Further, 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 and the nature of the disputed domain name, are indicative of bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)).

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. [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-com.net> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: September 22, 2024