

ADMINISTRATIVE PANEL DECISION

Sodexo v. Huber Corrales
Case No. D2024-3313

1. The Parties

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

The Respondent is Huber Corrales, Colombia.

2. The Domain Name and Registrar

The disputed domain name <sodexoghcolombia.com> is registered with Arsys Internet, S.L. dba NICLINE.COM (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 13, 2024. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. Also on August 14, 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 (Unknown) and contact information in the Complaint.

The Center sent an email communication to the Complainant on August 15, 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 16, 2024.

Also on August 15, 2024, the Center informed the parties in Spanish and English, that the language of the registration agreement for the disputed domain name is Spanish. On August 16, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 17, 2024.

The Center appointed Rodrigo Velasco Santelices as the sole panelist in this matter on September 23, 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

Founded in 1966, the French company SODEXO (previously called SODEXHO ALLIANCE) is one of the largest companies in the world specialized in food services and facilities management, with 430 000 employees serving daily 80 million consumers in 45 countries. The Complainant is one of the largest employers worldwide.

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

The Complainant was listed as one of "The world's Most Admired Companies" by FORTUNE Magazine. From 1966 to 2008, SODEXO promoted its business under the SODEXHO mark and trade name. In 2008, SODEXHO simplified the spelling of its mark and name to SODEXO and changed its logo.

The Complainant provides a wide range of services under its trade name and mark SODEXO through an offer of on-site services.

The mark SODEXO is used in connection with the following activities intended to improve the quality of daily life as shown in Sodexo's website:

- Food Services: these services relate to restaurant and catering services to companies, hospitals, schools, universities and a range of other organizations. In addition to traditional food services, SODEXO's expertise includes retail services, food delivery, meal and food vouchers as well as digital food ordering services.
- Facility Management Services: these services combine reception, hospitality and cleaning services (soft Facility Management) and infrastructure maintenance services (hard Facility Management) and aims to meet clients' needs, while ensuring user comfort, safety and well-being.

The SODEXO mark is continuously and extensively used and registered worldwide. Among others, the Complainant owns the following SODEXO registered marks:

Colombian trademark registrations filed on November 23, 2007, under priority of the French trademark registration No. 07 3 513 766 of July 16, 2007, registered under No. 357254 in international class 9, No. 357255 in international class 16, No. 357259 in international class 35, No. 357258 in international class 36, No. 357269 in international class 37, No. 357268 in international class 38, No. 357267 in international class 39, No. 357263 in international class 40, No. 357260 in international class 41, No. 357264 in international class 42, No. 357266 in international class 43, No. 357265 in international class 44 and No. 360959 in international class 45, duly renewed in 2018.

International trademark registration No. 964615 filed on January 8, 2008 under priority of the French trademark registration No. 07 3 513 766 of July 16, 2007, renewed in 2018, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45 protected in the following jurisdictions: Armenia, Australia, Azerbaijan, Bosnia and Herzegovina, Bahrain, Belarus, Switzerland, China, Algeria, Egypt, European Union,

Islamic Republic of Iran, Iceland, Israel, Japan, Kyrgyzstan, Democratic People's Republic of Korea, Republic of Korea, Kazakhstan, Lesotho, Morocco, Monaco, Republic of Moldova, Montenegro, Mongolia, Republic of Namibia, Norway, Serbia, Russian Federation, Singapore, Türkiye, Ukraine, United States of America, Uzbekistan, and Viet Nam.

International trademark registration No. 1240316 filed on October 23, 2014, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45 protected in Islamic Republic of Iran, Mozambique and United Kingdom.

European Union trademark registration filed on June 8, 2009, registered under No. 008346462, renewed in 2019 in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45.

European Union trademark registration filed on July 16, 2007, registered under No. 006104657, 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 filed on January 28, 1998 based on the French trademark registration No. 96 654 774 of December 10, 1996, renewed in 2018, in international classes 16, 36, 37, 39, 41 and 42 protected in the following jurisdictions: Armenia, Austria, Azerbaijan, Benelux, Belarus, Switzerland, China, Czech Republic, Germany, Denmark, Algeria, Egypt, Spain, Finland, United Kingdom, Greece, Hungary, Iceland, Italy, Japan, Democratic People's Republic of Korea, Kazakhstan, Latvia, Morocco, Monaco, Montenegro, Norway, Poland, Portugal, Romania, Serbia, Russian Federation, Sweden, Slovenia, Slovakia, Ukraine, and Viet Nam.

The Complainant also owns numerous domain names corresponding to and/or containing Sodexo or Sodexho. The Sodexo group promotes its activities among others under the following domain names: <sodexo.com>, <uk.sodexo.com>, <sodexoprestige.co.uk>, <sodexo.fr>, <sodexoca.com>, <sodexousa.com>, <cn.sodexo.com>, <sodexho.fr>, and <sodexho.com>.

Moreover, the notoriety of the SODEXO trademark has been already recognized in many other recent cases submitted to the Center. The Complainant is widely established and among others in Colombia where the Respondent is located: <https://co.sodexo.com/>.

Another panel already found that the domain name <ghsodexocolombia.com> is confusingly similar to the Complainant's trademark SODEXO, *Sodexo v. Huber Corrales*, WIPO Case D2022-3234 of October 27, 2022:

"The Panel considers that the disputed domain name is confusingly similar with the Complainant's SODEXO trademark, as it incorporates the Complainant's trademark SODEXO in its entirety with the inclusion of the elements "gh" and "colombia" which does not prevent a finding of confusing similarity".

This disputed domain name was registered on August 9, 2024, and resolves to an inactive blank website. As it can be seen, the Respondent in this case is the same Huber Corrales mentioned in the previous case decided on October 27, 2022.

5. Language of the proceeding

The language of the proceeding Pursuant to paragraph 11 of the Rules, unless otherwise agreed by the parties, is the language of the registration agreement, subject to the authority of the panel to determine otherwise. As indicated above, the Center has informed the parties that the language of the registration agreement for the disputed domain name is Spanish. Nevertheless, the Complainant has filed the Complaint and amended Complaint in English and has confirmed its request for the language of the proceeding to be English.

The Panel notes that the Center notified the Parties in Spanish and English of the language of the proceeding as well as notified the Respondent in Spanish and English of the Complaint and amended Complaint. The Respondent not only failed to answer the Complaint, but also did not oppose the Complainant's language request when it was given the opportunity do so.

The Respondent did not make any specific submissions with respect to the language of the proceeding. In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Further, the Panel takes into consideration that the Respondent is the same person that was also the Respondent in a previous case in which the language of the proceeding was English.

Noting the aim of conducting the proceedings with due expedition, paragraph 10 of the Rules vests a panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality and, that each party is given a fair opportunity to present its case. The Panel finds that ordering the Complainant to translate the Complaint, in view of the costs involved, would imply a significant burden to the Complainant, in addition to an unwarranted delay in the proceeding.

In view of the foregoing, the Panel decides that the language of this proceeding is English.

6. Parties' Contentions

A. Complainant

The disputed domain name is composed of the distinctive and fanciful SODEXO mark, with the addition of the elements "Colombia" and "gh", which can be understood as the abbreviation of the Spanish expression "Gestion Humana", easily understood by consumers as meaning "human resources".

The public can mistakenly understand the expression "sodexo gh Colombia" as referring to Sodexo's Colombian official website for human resources, or at least a Sodexo's official website for its activity in Colombia.

The addition of the elements "gh" and "Colombia" in the disputed domain name at issue is obviously not sufficient to distinguish it from the Complainant's marks. In the disputed domain name, the sign SODEXO keeps its individuality and is clearly perceived by consumers as the predominant part of the disputed domain name. The public can understand the expression "sodexo gh Colombia" as referring to Sodexo's Colombian official website for human resources, or at least a Sodexo's official website for its activity in Colombia.

It is widely admitted that the addition of generic or descriptive terms to a mark will not alter the fact that the disputed domain name at issue is confusingly similar to the mark in question.

The Complainant states having recently faced several cyber attacks, so 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 the Complainant's clients for considerable amounts by impersonating the Complainant's employees. This is the reason why the Complainant has decided to file the present Complaint.

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

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 SODEXO 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.

The Panel finds the mark is recognizable within the disputed domain name. Although the addition of other terms here, "gh" and "colombia", may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

Thus, 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 Complainant has submitted evidence to support that the trade mark SODEXO is widely known and was registered and used many years before the Respondent registered the disputed domain name.

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. Therefore, the Panel considers that the Respondent must have been aware of the Complainant's trademark SODEXO when registering the disputed domain name, so the target of using it was to generate confusion among the Internet users and benefit from the Complainant's reputation.

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 and 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.

With regard to the Respondent's passive holding of the disputed domain name, the Panel considers the following factors: (a) The Complainant's trademark SODEXO is well known; (b) The failure of the Respondent to submit a response or to provide any evidence of potential contemplated good faith use; (c) any good faith use of the inherently misleading disputed domain name is not plausible.

In view of the above reasons, 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 <sodexoghcolombia.com> be transferred to the Complainant.

/Rodrigo Velasco Santelices/

Rodrigo Velasco Santelices

Sole Panelist

Date: October 7, 2024