

ADMINISTRATIVE PANEL DECISION

SODEXO v. Maja Michal

Case No. D2024-4210

1. The Parties

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

The Respondent is Maja Michal, France.

2. The Domain Name and Registrar

The disputed domain name <sodexo-entreprises-fr.com> is registered with Combell NV (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 11, 2024. On October 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 15, 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 October 18, 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 October 21, 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 October 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 13, 2024.

The Center appointed William Lobelson as the sole panelist in this matter on November 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 Sodexo, one of the largest companies in the world specialized in food services and facilities management. It owns several trademark registrations for SODEXO:

SODEXO, International trademark registration No. 964615 dated January 8, 2008, in International classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45 protected in various jurisdictions.

SODEXO, International trademark registration No. 1240316 dated October 23, 2014, in International classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45 protected in the following countries: Islamic Republic of Iran and Mozambique.

SODEXHO, International trademark registration No. 689106 dated January 28, 1998, in International classes 16, 36, 37, 39, 41, and 42 protected in various jurisdictions.

SODEXHO, International trademark registration No. 694302 dated June 22, 1998, in International class 9 protected in various jurisdictions.

SODEXO, European Union trademark registration dated February 1, 2010, registered under No. 008346462, in International classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45. SODEXO, European Union trademark registration dated June 27, 2008, registered under No. 006104657, in International classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.

The disputed domain name is <sodexo-entreprises-fr.com>. It was registered on October 8, 2024, and does not direct to any active page. The Complainant has established, after filing the Complaint, that the disputed domain name was used as an email address to send messages to Internet users, for phishing purposes, by impersonating the Complainant.

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 confusingly similar to its earlier trademarks, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

Notwithstanding the default of the Respondent, it remains incumbent on the Complainant to make out its case in all respects under the Rules set out in paragraph 4(a) of the Policy. Namely, the Complainant must prove 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 has been registered and is being used in bad faith.

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.

Based on the available record, the Panel finds 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 Panel finds the mark is recognizable 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, "entreprises-fr") 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.

Based on the available record, 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.

(i) before any notice of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods and services;

(ii) the Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights; or

(iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

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, particularly by asserting that the Respondent is not affiliated with it in any way and that it has never authorized the Respondent to use its trademark as part of 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 Complainant further contends that the Respondent does not make any bona fide use nor a legitimate noncommercial or fair use of the disputed domain name.

In addition, the disputed domain name is used in connection with a fraudulent email scheme that impersonates the Complainant.

Panels have held that the use of a domain name for illegal or illegitimate activity, here phishing and impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

In the present case, the Panel notes that the Complainant claims that the Respondent has registered the disputed domain name and uses the same in bad faith, even though the said domain name does not resolve towards any active webpage.

It is a consensus view among UDRP panels that, with comparative reference to the circumstances set out in paragraph 4(b) of the UDRP deemed to establish bad faith registration and use, such as the apparent lack of so-called active use (e.g., to resolve to a website) of the domain name without any active attempt to sell or to contact the trademark holder (which constitutes passive holding), does not as such prevent a finding of bad faith. The Panel must examine all the circumstances of the case to determine whether the Respondent is acting in bad faith.

Examples of what may be cumulative circumstances found to be indicative of bad faith include the complainant having a well-known trademark, no response to the complaint having been filed, and the respondent's concealment of its identity. UDRP panels may draw inferences about whether a domain name was used in bad faith given the circumstances surrounding the registration.

The Complainant has substantiated the fact that its trademark SODEXO, which has been registered and used in France for years, now benefits from a high level of public awareness. Earlier UDRP decisions have acknowledged the Complainant's trademarks reputation.

The identity of the Respondent was disclosed by the Registrar and it was confirmed that the Respondent was based in France. The fact that the Respondent used a French address implies that he is a French resident or at least has connections with France, where the Complainant's mark is very well known.

It is also observed that the Respondent chose a domain name that is identical to the Corporate Name of one of the Complainant's subsidiaries, Sodexo Entreprises.

In light of the above, this Panel finds hard to believe that the Respondent did not have the Complainant's

trademark in mind when he registered the disputed domain name.

Regarding the high similarity of the disputed domain name with the Complainant's trademark SODEXO and the company name of its subsidiary Sodexo Entreprises, it is highly unlikely that the disputed domain name could have been registered and then used in good faith.

The Panel also notes that the Respondent did not reply to the Complaint.

The Panel infers from the above that the Respondent acted in bad faith when he registered the disputed domain name, and still acts in bad faith.

The disputed domain name is currently not directed to any active web page.

Further, the information provided to the Panel in support of the Complainant's contentions shows that the Respondent is making use of the disputed domain name as a fraudulent email address, for phishing purposes.

This is a fraudulent impersonation of the Complainant that clearly demonstrates a use in bad faith of the disputed domain name.

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-entreprises-fr.com> be transferred to the Complainant.

/William Lobelson/

William Lobelson

Sole Panelist

Date: November 25, 2024