

## **ADMINISTRATIVE PANEL DECISION**

**Sodexo v. VEERA RAGHAVA**

**Case No. D2023-1370**

### **1. The Parties**

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

Respondent is VEERA RAGHAVA, India.

### **2. The Domain Name and Registrar**

The disputed domain name <sodexoindia.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 March 29, 2023. On March 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 31, 2023, 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 Complainant on April 4, 2023, providing the registrant and contact information disclosed by the Registrar and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on April 4, 2023.

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 Respondent of the Complaint and the Amended Complaint, and the proceedings commenced on April 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 1, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on May 3, 2023.

The Center appointed Jeffrey D. Steinhardt as sole panelist in this matter on May 15, 2023. 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

Complainant is one of the world's largest companies, with global operations in food service and facilities management, among other areas.

Complainant has many registrations worldwide for its SODEXO trademarks including for example: Indian trademark application No. 1635770, filed on December 28, 2007; and International trademark registration No. 964615, registered on January 8, 2008, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45 protected in Armenia, Australia, Azerbaijan, Bosnia and Herzegovina, Bahrain, Belarus, Switzerland, China, Algeria, Egypt, the 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, Turkey, Ukraine, United States of America, Uzbekistan, and Viet Nam.

The disputed domain name was registered on March 20, 2023, and presently resolves to a parking page prominently displaying the term "sodexoindia" along with links to third-party websites.

#### 5. Parties' Contentions

##### A. Complainant

Complainant alleges that from 1966 it promoted its business under the SODEXHO mark and tradename until 2008, when Complainant simplified its mark by dropping the "h" to become "SODEXO." Complainant avers that it employs some 422,000 people serving 100 million consumers on a daily basis worldwide and operating in 53 countries.

Complainant avers that its main areas of activity include:

1. On-site Services relating to restaurant and catering services as well a wide range of facility management services and workplace services.
2. Benefits & Rewards Services, comprising the issuance of service vouchers and cards for private and public organizations in four service categories, including employee benefits, incentive and recognition programs, public benefits, and fleet and fuel expenses.
3. Personal & Home Services, including childcare, tutoring and adult education, concierge services, and home care for dependent persons.

Complainant avers that it promotes its activities through a number of websites for which the domain names include the SODEXO or SODEXHO marks in combination with geographical designations, such as <sodexo.in>, <sodexo.com>, <uk.sodexo.com>, <sodexoprestige.co.uk>, <sodexo.fr>, <sodexoca.com>, <sodexousa.com>, <cn.sodexo.com>, <sodexho.fr>, and <sodexho.com>.

Complainant avers that Respondent's confusingly similar disputed domain name resolves to a webpage prominently displaying a misleading heading that includes Complainant's SODEXO trademark. Complainant avers that the webpage also contains pay-per-click links directing Internet users to third parties, including competitors in the field of personal and home services.<sup>1</sup>

Complainant also avers that Complainant "fears a possible fraudulent use of the [disputed] domain name (...), notably for phishing" and that Complainant recently has faced several cyberattacks.

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<sup>1</sup>Images of the webpage to which the disputed domain name resolves are included in the Complaint.

Summarizing its legal contentions, Complainant alleges that (1) the disputed domain name is confusingly similar to Complainant's SODEXO trademarks, (2) Respondent has no rights or legitimate interests in the disputed domain name, and (3) the disputed domain name was registered and is being used in bad faith, all in violation of the Policy.

On the foregoing basis, Complainant requests transfer of the disputed domain name.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

The Rules require the Panel to decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable. Rules, paragraph 15(a). Complainant must establish each element of paragraph 4(a) of the Policy, namely:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) 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.

Complainant must establish these elements even if Respondent does not submit a Response. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3. In the absence of a Response, the Panel may also accept as true the reasonable factual allegations in the Complaint. See, e.g., *ThyssenKrupp USA, Inc. v. Richard Giardini*, WIPO Case No. [D2001-1425](#) (citing *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#)).

### **A. Identical or Confusingly Similar**

The Panel agrees with Complainant's allegation that the disputed domain name is confusingly similar to Complainant's SODEXO mark.

UDRP panels commonly disregard Top-Level Domains ("TLDs") in determining whether a disputed domain name is identical or similar to a complainant's marks. [WIPO Overview 3.0](#), section 1.11.1.

Omitting the ".com" TLD from the disputed domain name, the Panel notes that Complainant's entire SODEXO mark is included in the disputed domain name, adding only the term "india." The Panel finds that this simple addition to Complainant's mark does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.7 (where a domain name incorporates the entirety of a trademark, the domain name will normally be considered by UDRP panels to be confusingly similar).

The Panel therefore finds that the disputed domain name is confusingly similar to Complainant's mark and concludes that the first element of paragraph 4(a) of the Policy is established.

### **B. Rights or Legitimate Interests**

The Panel also concludes that Respondent has no rights or legitimate interests in the disputed domain name.

The Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in a domain name. The list includes: (1) using the domain name in connection

with a *bona fide* offering of goods and services; (2) being commonly known by the domain name; or (3) making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers. Policy, paragraphs 4(c)(i) – (iii).

A complainant must show a *prima facie* case that a respondent lacks rights or legitimate interests in a disputed domain name, after which the burden of production shifts to the respondent. See, e.g., [WIPO Overview 3.0](#), section 2.1. The absence of rights or legitimate interests is established if a complainant makes out a *prima facie* case and the respondent enters no response. *Id.*

Complainant alleges that Respondent is not commonly known by the disputed domain name and that Respondent has no affiliation nor any rights or authorization to use Complainant's SODEXO marks. In the absence of a Response, the Panel accepts these allegations as true.

The record shows that the disputed domain name has previously resolved to a website displaying links to third party websites, including those that promote services in direct competition with home-care services provided by Complainant.<sup>2</sup> The Panel finds that the linking to webpages of third parties constitutes commercial use, which eliminates the possibility of legitimate noncommercial or fair use without intent for commercial gain. See, e.g., *The Bear Stearns Companies Inc. v. Darryl Pope*, WIPO Case No. [D2007-0593](#) (“[t]he Panel is free to infer that Respondent is likely receiving some pecuniary benefit [...] in consideration of directing traffic to that site” (citing *COMSAT Corporation v. Ronald Isaacs*, WIPO Case No. [D2004-1082](#))). See *Fat Face Holdings Ltd v. Belize Domain WHOIS Service Lt*, WIPO Case No. [D2007-0626](#); and *Sanofi-aventis v. Montanya Ltd*, WIPO Case No. [D2006-1079](#).

As further noted by Complainant, it is well established that the use of a disputed domain name “to host a parked page comprising [pay-per-click] links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users.” [WIPO Overview 3.0](#), section 2.9.

The Panel therefore finds that Complainant has established a *prima facie* case that Respondent lacks rights or legitimate interests. Refraining from submitting a response, Respondent fails to contradict or rebut the *prima facie* case.

The Panel rules that the Complaint satisfies the second element of paragraph 4(a) of the Policy.

### **C. Registered and Used in Bad Faith**

The Panel finds that the third element of paragraph 4(a) of the Policy, bad faith registration and bad faith use, is also established, as elaborated below.

Using a domain name to intentionally attract Internet users, for commercial gain, by creating a likelihood of confusion, may be evidence of bad faith registration and bad faith use. Policy paragraph 4(b)(iv). See, e.g., *L'Oréal, Biotherm, Lancôme Parfums et Beauté & Cie v. Unasi, Inc*, WIPO Case No. [D2005-0623](#). Using a domain name to disrupt the business of a competitor may also be evidence of bad faith. Policy paragraph 4(b)(iii).

The record shows that the disputed domain name resolves to a webpage with a heading that incorporates Complainant's distinctive and well-known SODEXO mark, without authorization. The Panel infers that Respondent was undoubtedly aware of Complainant's SODEXO marks, which had been registered and enjoyed widespread use for many years. The Panel finds that Respondent deliberately included the SODEXO mark in the disputed domain name to create confusion and attract Internet users to Respondent's

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<sup>2</sup>The Panel finds that Complainant's screen captures of relevant webpage images are reliable evidence of the appearance of the website to which the disputed domain name resolved prior to the filing of this proceeding. Those screen captures are generally consistent with the appearance of that website presently.

website for commercial gain. Therefore, the Panel concludes that Respondent registered the disputed domain name in bad faith.

As noted above, the record also shows that the disputed domain name was used to display a parking page with links to third parties, including some in competition with Complainant. The Panel concludes that this activity evidences bad faith use by Respondent under the Policy, paragraphs 4(b)(iii) & (iv); cf. [WIPO Overview 3.0](#), section 3.1.4 (noting that redirection to website of a competitor of a complainant supports a finding of use in bad faith).

The Panel further finds that Respondent's failure to maintain accurate contact details in accordance with Respondent's agreement with the Registrar is cumulative evidence of use in bad faith.

Consequently, the Panel concludes that the requirements of the third element of Policy paragraph 4(a) are fulfilled.<sup>3</sup>

## 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 <sodexoindia.com> be transferred to Complainant.

*/Jeffrey D. Steinhardt/*

**Jeffrey D. Steinhardt**

Sole Panelist

Date: May 28, 2023

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<sup>3</sup>In light of ample evidence establishing Respondent's bad faith under the Policy, it is unnecessary for the Panel to address the Complainant's speculative allegations that Respondent intends to use the disputed domain name for fraudulent attacks and phishing.