

## ADMINISTRATIVE PANEL DECISION

Sodexo v. Letícia Nagy, Sodexo

Case No. D2023-3481

### 1. The Parties

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

The Respondent is Letícia Nagy, Sodexo, Brazil.

### 2. The Domain Name and Registrar

The disputed domain name <sodexoclub.org> is registered with Squarespace Domains II LLC (the “Registrar”)<sup>1</sup>.

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 16, 2023. On August 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 17, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 18, 2023, 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 21, 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”).

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<sup>1</sup> The Complaint was filed identifying the Registrar as Google LLC. On September 28, 2023, Google LLC confirmed that the disputed domain name is registered with Squarespace Domains II LLC following a purchase agreement. Google LLC has confirmed both Registrars’ compliance with the UDRP and the implementation of the decision by either Registrar.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 15, 2023.

On September 27, 2023, the Center verified and informed the parties in Portuguese and English, that the language of the registration agreement for the disputed domain name is Portuguese. On the same date, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

The Center appointed Gonalo M. C. Da Cunha Ferreira as the sole panelist in this matter on October 9, 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**

The Complainant is a French company (previously called Sodexho Alliance) founded in 1966 and is specialized in food services and facilities management.

The Complainant is one of the largest employers worldwide with 412,000 employees serving 100 million consumers in 53 countries.

The Complainant is listed as one of "The world's Most Admired Companies" by Fortune Magazine.

The SODEXO and SODEXO CLUB marks are continuously and extensively used and registered worldwide, among others:

- SODEXO, Brazilian Trademark Registration No. 829531874 in international class 9, registered on March 17, 2015;
- SODEXO, Brazilian Trademark Registration No. 829531866 in international class 16, registered on March 17, 2015;
- SODEXO, International Trademark Registration No. 964615, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45, designating multiple jurisdictions.
- SODEXO, 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, designating several jurisdictions, registered on January 8, 2008;
- SODEXO CLUB, International Trademark Registration No. 982252, in international classes 9, 35 and 36, designating China and Russian Federation, registered on September 15, 2009;
- SODEXO, European Union Trademark Registration No. 007107097, registered on July 29, 2008, renewed in 2019, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45.
- SODEXO CLUB, European Union Trademark Registration No. 008346462 in international classes 9, 35 and 36, registered on February 1, 2010;
- SODEXO CLUB, Uruguayan Trademark Registration No. 00500666, in international classes 9, 35, 36 and 39, registered on January 31, 2021.

The SODEXO mark has been already recognized, among others, in the following cases under the UDRP:

- *Sodexo v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1580](#): "Further, the Complainant's business is truly international and of such a size and scope that it has developed a very substantial reputation and goodwill as has been recognized by previous UDRP panels."

- *Sodexo v. Contact Privacy Inc. Customer 1247189803 / NorAm Accounts Receivable*, WIPO Case No. [D2020-1683](#): “The Domain Name is almost identical to the Complainant’s well-known trademark.”

- *SODEXO v. Super Privacy Service LTD c/o Dynadot / Zhichao*, WIPO Case No. [D2020-1762](#): “[...] the Respondent’s registration of the Disputed Domain Names that are confusingly similar to the Complainant’s well-known SODEXO Mark is sufficient evidence of bad faith registration and use.”

- *SODEXO v. Zhichao Yang (杨智超)*, WIPO Case No. [D2020-2286](#): “In the absence of a Response from the Respondent, the Panel is satisfied that the Respondent most likely knew of the existence of the Complainant’s trademark at the time of registering the Domain Names given the widespread fame of the Complainant and the SODEXO trademark.”

The Complainant is also the owner of the domain names <sodexoclub.com> and <clubsodexo.com > since 2008 and uses the expression “club Sodexo” as a subdomain to propose its services.

The disputed domain name was registered on July 7, 2023, and resolves to an inactive page.

## 5. Parties’ Contentions

### A. Complainant

The Complainant contends that the three requirements of paragraph 4(a) of the Policy are met.

The Complainant states that the disputed domain name reproduces the word part of its trademarks SODEXO CLUB and SODEXO in which the Complainant has rights.

The Complainant’s evidence shows that its trademarks SODEXHO and SODEXO have a strong reputation and are widely known all over the world and states that previous UDRP Panels have already recognized the well-known character of the trademarks SODEXHO and SODEXO in many decisions.

The Complainant contends that given the reproduction of the trademarks SODEXO and SODEXO CLUB, the public will believe that the disputed domain name comes from the Complainant or is linked to the Complainant.

The disputed domain name is currently inactive. However, the Complainant, which has recently faced several attacks, fears a possible fraudulent use of the disputed domain name, notably to perpetrate email scam sent to its clients requesting payment of false invoices on fake bank accounts of the Complainant.

The Complainant’s also evidence shows that previous UDRP panels have already recognized in two dispute decisions (*Insight Global, LLC v. Contact Privacy Inc. Customer 0156408630 / Janine Harris*, WIPO Case No. [D2021-3370](#) and *Sodexo v. Lee Charles (黄登通) v.* WIPO Case No. [D2020-2300](#)) that the domain names <clubsodexho.com> and <sodexo.club> are confusingly similar to the trademarks SODEXHO and SODEXO.

Moreover, the Complainant argues that 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 disputed domain name and to use it.

Finally, the Complainant contends that the sign SODEXO is purely fanciful and nobody could legitimately choose this word or any variation thereof (especially associated with the element “club”), unless seeking to create an association with the Complainant’s activities and marks SODEXO and SODEXO CLUB.

Given the well-known character and reputation of the SODEXO and SODEXHO marks, the Respondent knew of their existence when the Respondent registered the disputed domain name <sodexoclub.org>.

Therefore, the Respondent has registered the disputed domain name with actual knowledge of the Complainant's rights in the mark SODEXO trademark and very likely for the purpose of creating confusion with the Complainant's trademarks to divert or mislead third parties into believing that the disputed domain name is somehow connected to the Complainant for the Respondent's illegitimate profit. Furthermore, the Complainant argues that the unauthorized registration of the disputed domain name by the Respondent and its passive holding of the disputed domain name, likely in the aim of fraudulent uses, are for the purpose of commercial gain and, as such, constitute bad faith in registration and use of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Language**

The language of the registration agreement for the disputed domain name is in the Portuguese language and the Complainant requests to conduct the proceedings in English. Pursuant to paragraph 11 of the Rules, the Panel has authority to determine the language of proceedings. As it is reminded in section 4.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement". Facing the arguments of the Complainant, namely that the Complainant is not able to effectively communicate in Portuguese, being a French entity, the Complainant is not in a position to conduct the proceedings in Portuguese without a great deal of additional expense and delay, the circumstances of this case including the absence of a reply from the Respondent both to the Complainant's language request and to the Complaint, the Panel determines that English is the language of proceedings.

### **B. Identical or Confusingly Similar**

The Complainant has provided evidence of its trademark registrations in relation to the marks SODEXHO, SODEXO, and SODEXO CLUB.

It has been recognized repeatedly in previous UDRP panels that the whole reproduction of a trademark in a domain name is sufficient to establish confusing similarity: See *Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr.*, WIPO Case No. [D2002-0903](#); and *Eauto, L.L.C. v. Triple S. Auto Parts d/b/a Kung Fu Yea Enterprises, Inc.*, WIPO Case No. [D2000-1525](#). See also [WIPO Overview 3.0](#), section 1.7.

The disputed domain name is composed of the trademarks SODEXO and SODEXO CLUB in their entirety.

The Panel finds that the Complainant's trademarks SODEXO and SODEXO CLUB are clearly recognizable within the disputed domain name.

Therefore, the Panel finds that paragraph 4(a)(i) of the Policy is satisfied in favour of the Complainant.

### **C. Rights or Legitimate Interests**

The Complainant also asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Respondent could potentially have demonstrated having rights or legitimate interests in the disputed domain name, by showing any one of the three requirements of paragraph 4(c) of the Policy, but the Respondent failed to do so.

The overall burden of proof for establishing that the Respondent has no rights or legitimate interests in the disputed domain name lies with the Complainant. In this respect, the Panel also accepts that there is no evidence that the Respondent is commonly known by the disputed domain name and has not acquired any rights or legitimate interests in the SODEXO mark.

Further, the disputed domain name does not resolve to any active website.

The Panel finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name which the Respondent has not rebutted.

Moreover, the nature of the disputed domain name carries a risk of an implied affiliation as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds that paragraph 4(a)(ii) of the Policy is satisfied in favour of the Complainant.

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

The Panel is satisfied that the disputed domain name has been registered and used in bad faith for the following reasons:

The trademark SODEXO is purely fanciful and it was registered several years before the registration of the disputed domain name, therefore, it is reasonable to accept that nobody could legitimately choose this word or any variation thereof, unless seeking to create an association with the Complainant's activities and marks SODEXO.

The mark SODEXO has a strong reputation and its well-known character has been repeatedly recognized by previous UDRP panels, see, among others, *Sodexo v. Lloyd Group*, WIPO case [D2021-1214](#) "The well-known and worldwide reputation of the Complainant and its Trademark, the distinctiveness of the Trademark, and the fact that the Respondent did not file a response to the Complaint, are all circumstances from which the Panel draws the conclusion that the Domain Name was registered and is being used in bad faith."; *Sodexo v. Registration Private, Domains By Proxy, LLC, Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1580](#) "Further: the Complainant's business is truly international and of such a size and scope that it has developed a very substantial reputation and goodwill as has been recognized by previous UDRP panels"; *SODEXO v. Zhichao Yang (杨智超)*, WIPO Case No. [D2020-2286](#) "In the absence of a Response from the Respondent, the Panel is satisfied that the Respondent most likely knew of the existence of the Complainant's trademark at the time of registering the Domain Names given the widespread fame of the Complainant and the SODEXO trademark"; and *SODEXO v. Ashutosh Dwivedi, Food & Beverages*, WIPO Case No. [D2020-2686](#): "The Mark is sufficiently distinctive and well-known such that it is difficult to conceive of any use that the Respondent might make of the disputed domain name without the Complainant's consent that would not involve bad faith." The well-known status of the Complainant's trademarks and the fact that the disputed domain name reproduces the SODEXO and SODEXO CLUB trademarks in their entirety, indicates that the Respondent knew or should have known of the Complainant's trademarks, which in the circumstances amounts to registration in bad faith. [WIPO Overview 3.0](#), sections 3.2.1 and 3.2.2.

Additionally, the non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of "passive holding", particularly considering the fame and distinctiveness of the Complainant's SODEXO mark, and the implausibility of any good faith use that the inherently misleading disputed domain name may be put. See section 3.3 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds that paragraph 4(a)(iii) of the Policy is satisfied in favour of the Complainant.

## 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, <sodexoclub.org> be transferred to the Complainant.

*/Gonçalo M. C. Da Cunha Ferreira/*

**Gonçalo M. C. Da Cunha Ferreira**

Sole Panelist

Date: October 23, 2023