

## **ADMINISTRATIVE PANEL DECISION**

Sodexo v. oscar aguillon

Case No. D2023-3482

### **1. The Parties**

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

The Respondent is oscar aguillon, Mexico.

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

The disputed domain name <sodexoclub.site> is registered with HOSTINGER operations, UAB (the “Registrar”).

### **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 21, 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 (Domain Admin / Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 22, 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 24, 2023.

The Center verified that the Complaint 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 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 18, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 18, 2023.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on September 29, 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 was founded in 1966 and operates in the field of foodservices and facilities management. Between 1966 and 2008, the Complainant operated under the trademark SODEXHO, which has since then been changed to SODEXO. The Complainant uses the domain name <sodexo.com> to provide its services.

The Complainant owns a number of trademark registrations for the trademark SODEXO such as:

- International Registration No. 964615, registered on January 8, 2008 in classes 45, 35, 38, 41, 36, 43, 16, 42, 9, 44, 39, 40, 37;
- International Registration No. 1240316, registered on October 23, 2014 in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45;
- European Union Trademark Registration No. 008346462, registered on February 1, 2010 in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45.

The Complainant owns a number of trademark registrations for the trademark SODEXO CLUB such as:

- European Union Trademark Registration No. 007107097 registered on March 17, 2009 in classes 9, 35, 36;
- International Registration No. 982252 registered on September 15, 2008 in classes 9, 35, 36.

The disputed domain name was registered on August 10, 2023. The disputed domain name is leading Internet users to a website looking like the official SODEXO website.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademark SODEXO/ SODEXHO. The trademark SODEXO has been considered well known by previous UDRP panels. The disputed domain name reproduces the Complainant's trademark SODEXO and trademark SODEXO CLUB.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with nor authorized by the Complainant to use its trademark. The Respondent is not commonly known by the disputed domain name. The disputed domain name is registered in the name of a privacy service.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Respondent was aware of the Complainant's trademark SODEXO as it is a fanciful word and a well-known trademark. As per prior UDRP panels, knowledge of the trademark is an inference of bad faith. The disputed domain name resolves to a website that pretends to belong to the Complainant as it displays trademarks belonging to the Complainant and requires access through password. The purpose is to achieve commercial gain.

##### **B. Respondent**

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

The Complainant owns trademark registrations for the trademark SODEXO and the trademark SODEXO CLUB. The Panel is satisfied that the Complainant has established its ownership of the said trademarks.

The disputed domain name comprises the Complainant's trademark SODEXO and the trademark SODEXO CLUB in their entirety. The generic Top-Level Domain ("gTLD") ".site" should generally be ignored when assessing confusing similarity as established by prior UDRP decisions.

Consequently, the Panel finds that the disputed domain name is confusingly similar to the trademarks of the Complainant and that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

The Complainant has made a *prima facie* showing that the Respondent does not have any rights or legitimate interests in the disputed domain name, particularly by asserting that it never authorized the Respondent to use its trademarks as part of the disputed domain name.

The Respondent has not provided evidence of circumstances of the types specified in paragraph 4(c) of the Policy, or of any other circumstances, giving rise to rights or legitimate interests in the disputed domain name.

Moreover, the Panel finds that the disputed domain name carries a risk of implied affiliation. See section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Consequently, the Panel finds that the Complainant has met the requirement under the Policy of showing that the Respondent does not have any rights or legitimate interests in the disputed domain name. Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

### C. Registered and Used in Bad Faith

The Complainant's trademark SODEXO is a well-known trademark as established by prior UDRP decisions. Both trademarks SODEXO and SODEXO CLUB had been registered for fifteen years by the time the disputed domain name was registered. The trademark SODEXO is fanciful as it does not have a dictionary meaning. The disputed domain name resolves to a website which displays the Complainant's trademark. Therefore, the Respondent must have been fully aware of the Complainant and its trademarks when it registered the disputed domain name.

The disputed domain name resolves to a webpage that according to the material on file displays a trademark of the Complainant. Such conduct of using a domain name, to attract Internet users for commercial gain, would fall squarely within the meaning of paragraph 4(b)(iv) of the Policy. Lastly, the Respondent used a privacy service, which in the circumstances of this case is a further indication of bad faith.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) 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, <sodexoclub.site>, be transferred to the Complainant.

*/Nayiri Boghossian/*

**Nayiri Boghossian**

Sole Panelist

Date: October 4, 2023