

ADMINISTRATIVE PANEL DECISION

SODEXO v. piere paul, htec
Case No. D2023-4588

1. The Parties

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

The Respondent is piere paul, htec, France.

2. The Domain Name and Registrar

The disputed domain name <purchase-sodexo.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 6, 2023. On November 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 6, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 13, 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 November 17, 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 the Respondent of the Complaint, and the proceedings commenced on November 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 15, 2023.

The Center appointed Alexandre Nappey as the sole panelist in this matter on December 26, 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 the French company Sodexo, one of the largest company in the world specialized in foodservices and facilities management.

The Complainant is the owner of several national, international and European trademark registrations SODEXO, among which:

- French Trademark SODEXO No. 3513766 filed on July 16, 2007 and registered on December 21, 2007, for products and services in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45, and renewed in 2017;
- European Trademark SODEXO No. 008346462 filed on June 8, 2009 and registered on February 1, 2010 for products and services in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45, and renewed in 2019;
- International Trademark SODEXO No. 964615 filed on January 8, 2008, under priority of the French trademark registration No. 073513766 of July 16, 2007, registered for products and services in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45, renewed in 2018 and protected in the numerous countries;
- International Trademark SODEXO No. 1240316 filed on October 23, 2014, registered for products and services in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45 protected in numerous countries and renewed in 2019;

The Respondent registered the disputed domain name <purchase-sodexo.com> on October 26, 2023.

At the time of the present decision and when the Complaint was filed, the disputed domain name resolves a parking page with commercial Pay-Per-Click ("PPC") links.

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.

First, the Complainant claims that the disputed domain name <purchase-sodexo.com> is identical or confusingly similar to the trademark SODEXO in which the Complainant has rights.

Indeed, it is composed of the trademark SODEXO, associated with the term "purchase".

In the disputed domain name, the trademark SODEXO remains dominant and keeps its individuality and attractive character. The addition of the element "purchase" in the domain name at issue is inoperative to distinguish it from the Complainant's trademark SODEXO.

Then, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name:

- the Respondent has no rights on Sodexo as corporate name, trade name, shop sign, trademark or domain name that would be prior to the Complainant's rights on SODEXO.
- the Respondent was not commonly known by the disputed domain name prior to the adoption and use by the Complainant of the corporate name, business name and trademark SODEXO / SODEXHO.
- 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 concerned domain name and to use it.

Third, the Complainant asserts that the disputed domain name was registered and is being used in bad faith:

- the trademark SODEXO is purely fanciful, and nobody could legitimately choose this word or any variation thereof, unless seeking to create an association with the Complainant's activities and trademark SODEXO.

- given the well-known character and reputation of the SODEXO / SODEXHO trademark, the Respondent knew its existence when he registered the domain name, so that he perfectly knew that he had no rights or legitimate interests in the disputed domain name and that he cannot lawfully use it.

The Respondent is using the disputed domain name by exploiting the confusion with the well-known SODEXO / SODEXHO trademark to attract Internet users and to incite them to click on Complainant's competitors' commercial links.

This is then an intentional attempt to attract, for commercial gain, Internet users to websites of Complainant's competitors, and unrelated websites, by creating a likelihood of confusion with the well-known trademark SODEXO.

The unauthorized use and registration of the disputed domain name by the Respondent to attract and redirect Internet users to websites of Complainant's competitors are solely for the purpose of achieving commercial gain and then constitute bad faith registration and use.

Moreover, the Internet users who have a legitimate interest in the Sodexo group could have been then exposed to these parking services proposing advertising PPC links to websites of Complainant's competitors. This may not only be confusing for the consumers.

B. Respondent

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

6. Discussion and Findings

Notwithstanding the default of the Respondent, the Complainant has the burden of proof to make its case in accordance with paragraph 4(a) of the Policy, and to demonstrate that:

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

However, under paragraph 14(b) of the Rules, where a Party does not comply with any provision of the Rules, the Panel "shall draw such inferences therefrom as it considers appropriate".

Having considered the Parties' submissions, the Policy, the Rules, the Supplemental Rules and applicable law, the Panel's findings on each of the above-mentioned elements are the following.

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 entirety of the trademark 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.

Although the addition of other terms, here “purchase” 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 trademark 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.

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.

Based on the available record, 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 Respondent had necessarily the Complainant’s trademark in mind when it registered the disputed domain name, considering that the Complainant has established goodwill and reputation on the SODEXO trademark and that the disputed domain name incorporates that trademark in its entirety.

Indeed, the Respondent knew or should have known of the Complainant’s trademarks and deliberately registered the disputed domain name. [WIPO Overview 3.0](#), section 3.2.2.

Such finding is reinforced by the fact that the Complainant submitted printouts showing that the website operated under the disputed domain name is being used to activate a parking page proposing advertising PPC links to websites of Complainant’s competitors.

It appears therefore that the Respondent, by referring to the SODEXO trademark in the disputed domain name, is trying to create a likelihood of confusion in order to attract, for commercial gain, Internet users to its own website.

The Panel finds that the Respondent's use of the disputed domain name cannot therefore constitute use of the disputed domain name in a *bona fide* offering of goods or services.

Accordingly, the Panel finds that the Respondent registered the disputed domain name with the Complainant in mind and with the intention of capitalizing on the reputation of the Complainant within the meaning of paragraph 4(b)(iv) of the Policy.

The Panel finds that the above constitutes registration and use in bad faith pursuant to the third requirement of paragraph 4(a) of the Policy.

Based on the available record, 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 <purchase-sodexo.com> be transferred to the Complainant.

/Alexandre Nappey/

Alexandre Nappey

Sole Panelist

Date: January 9, 2024