

ADMINISTRATIVE PANEL DECISION

Sodexo v. Thomas Stuart
Case No. D2024-0874

1. The Parties

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

The Respondent is Thomas Stuart, France.

2. The Domain Name and Registrar

The disputed domain name <sodexo-entreprises.store> is registered with Key-Systems GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 28, 2024. On February 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 1, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 4, 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 March 7, 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 March 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 2, 2024.

The Center appointed Louis-Bernard Buchman as the sole panelist in this matter on April 10, 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, a French company listed on the Euronext stock exchange, which was founded in 1966 by the late Mr. Pierre Bellon, is one of the world leaders in food services and facilities management, with 430.000 employees worldwide daily serving 80 million consumers in 45 countries, and a consolidated turnover in 2023 of EUR 22,6 billion.

The Complainant owns rights in a large portfolio of SODEXO trademarks, including inter alia French trademark No. 3513766 registered on July 16, 2007, International trademark registration no. 964615 registered on January 8, 2008, European Union trademark registered under No. 006104657 on June 27, 2008, European Union trademark registered under No. 008346462 on February 1, 2010, and, International trademark registration No. 1240316 registered on October 23, 2014 (together referred to hereinafter as: “the Mark”).

In addition, the Complainant has registered several domain names, including inter alia <sodexo.com> and <sodexo.fr>.

The Respondent is apparently located in France.

The disputed domain name was registered on February 25, 2024, and resolved to an inactive page. The Complainant submitted evidence showing that the disputed domain name was used to send email communications impersonating the Complainant. At the time of this decision, the disputed domain name does not resolve to any active website.

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:

- (i) the disputed domain name reproduces the Mark, in which the Complainant has rights, and is confusingly similar to the Mark insofar as the disputed domain name contains the Mark in its entirety. The addition of the term in French “entreprises” does not serve to distinguish the disputed domain name from the Mark.
- (ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name, by which he is not commonly known. Furthermore, the Complainant contends that it never licensed the Respondent to use the Mark in any manner or consented to such use, and that the Respondent never had any business connection or affiliation with the Complainant.
- (iii) The Respondent knew of the Mark when registering the disputed domain name and is using it in bad faith by sending out phishing e-mails.

The Complainant requests that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural Aspects - Failure to Respond

As aforementioned, no Response was received from the Respondent.

Under the Rules, paragraphs 5(f) and 14(a), the effect of a default by the Respondent is that, in the absence of exceptional circumstances, the Panel shall proceed to a decision on the basis of the Complaint.

Under paragraph 4(a) of the Policy, it is the Complainant's burden to establish that all three of the required criteria for a transfer of the disputed domain name have been met, even in the event of a default.

Under paragraph 14(b) of the Rules, the Panel is empowered to draw such inferences from the Respondent's default as it considers appropriate under the circumstances.

In this case, the Panel finds that as a result of the default, the Respondent has failed to rebut any of the reasonable factual assertions that are made and supported by evidence submitted by the Complainant. In particular, by defaulting and failing to respond, the Respondent has failed to offer the Panel any of the types of evidence set forth in paragraph 4(c) of the Policy or otherwise, from which the Panel might conclude that the Respondent has any rights or legitimate interests in the disputed domain name, such as making legitimate noncommercial or fair use of the disputed domain name.

Moreover, as discussed below, the Respondent has failed to provide any exculpatory information or reasoning that might have led the Panel to question the Complainant's arguments that the Respondent has acted in bad faith.

6.2. Requirements of paragraph 4(a) of the Policy

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.

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 entirety of the Mark 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 a hyphen and the term in French "entreprises" here 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.

It is also well established that a generic top-level domain ("gTLD") does not generally affect the assessment of a domain name for the purpose of determining identity or confusing similarity. [WIPO Overview 3.0](#), section 1.11.1.

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.

The Panel finds that the composition of the disputed domain name, combining the Mark with the term in French “entreprises”, carries a risk of implied affiliation, as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

Moreover, UDRP Panels have held that the use of a domain name for illegal activity, such as phishing as evidenced in this case, 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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Mark, as recognized by many UDRP panels which have declared the Mark to be famous or well-known (see for instance *Sodexo v. Contact Privacy Inc. Customer 1246780534 / Chivers Michael*, WIPO Case No. [D2020-0865](#); *Sodexo v. WhoisGuard Protected, WhoisGuard, Inc. / New World*, WIPO Case No. [DCO2020-0021](#); *Sodexo v. Contact Privacy Inc. Customer 1247228940 / James Lehman*, WIPO Case No. [D2020-1281](#); *Sodexo v. Registration Private, Domains By Proxy, LLC / Krissa Pucket*, WIPO Case No. [D2020-1315](#); *Sodexo v. Contact Privacy Inc. Customer 1247189803 / NorAm Accounts Receivable*, WIPO Case No. [D2020-1683](#); *SODEXO v. Super Privacy Service LTD c/o Dynadot / Zhichao*, WIPO Case No. [D2020-1762](#); *SODEXO v. Zhichao Yang*, WIPO Case No. [D2020-2286](#); *SODEXO v. Ashutosh Dwivedi, Food & Beverages*, WIPO Case No. [D2020-2686](#); *Sodexo v. Domains By Proxy, LLC, DomainsByProxy.com / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-3085](#); *Sodexo v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO case [D2021-0472](#); *Sodexo v.*

Carolina Rodrigues, Fundacion Comercio Electronico, WIPO Case No. [D2021-0485](#); *Sodexo v. Daniela Ortiz*, WIPO Case No. [D2021-0628](#); *Sodexo v. Yang Zhichao*, WIPO Case No. [D2021-0902](#); *Sodexo v. Lloyd Group*, WIPO Case No. [D2021-1214](#) and *Sodexo v. Franck Gauthier*, WIPO Case No. [D2021-3746](#).

As noted above, the Respondent has failed to provide any exculpatory information or persuasive reasoning that might have led the Panel to question the Complainant's arguments that the Respondent acted in bad faith by creating confusion to the detriment of the Complainant by registering the disputed domain name confusingly similar to the Mark.

Prior UDRP panels have also held that bad faith use of a domain name by a respondent may also result from the fact its good faith use is in no way plausible (see *Audi AG v. Hans Wolf*, WIPO Case No. [D2001-0148](#)). Considering the reputation of the Complainant's Mark, and the use of the disputed domain name to send emails impersonating the Complainant, the Panel finds that the Respondent had the Complainant in mind when registering the disputed domain name.

In this case, the Panel cannot find any actual or contemplated good faith use of the disputed domain name, as its use invariably results in taking unfair advantage of the Complainant's rights. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

Furthermore, UDRP panels have held that the use of a domain name for illegal activity, such as sending out phishing e-mails, like in the present case, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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.store> be transferred to the Complainant.

/Louis-Bernard Buchman/
Louis-Bernard Buchman
Sole Panelist
Date: April 15, 2024