

ADMINISTRATIVE PANEL DECISION

Sodexo v. Thomas Allain
Case No. D2024-1218

1. The Parties

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

The Respondent is Thomas Allain, Belgium.

2. The Domain Name and Registrar

The disputed domain name <sodexo-entreprises.com> is registered with Combell NV (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 20, 2024. On March 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 22, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 22, 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 25, 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 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 18, 2024.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on April 24, 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 was founded in 1966 and is specialized in food services and facilities management. One of the Complainant's subsidiaries is the company Sodexo Entreprises. The Complainant owns many trademark registrations for SODEXO worldwide such as the following:

- 1) International Trademark Registration No. 1240316, registered on October 23, 2014;
- 2) European Union Trademark Registration No. 008346462, registered on February 1, 2010; and
- 3) European Union Trademark Registration (figurative) No. 006104657, registered on June 27, 2008.

The disputed domain name was registered on March 18, 2024, and resolves to the Registrar's parking page.

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 the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant's trademark is recognized as well known by prior UDRP panels. The disputed domain name incorporates the Complainant's trademark adding to it the word "entreprises", which means "enterprises" in English. The addition of this generic or descriptive term does not eliminate confusing similarity. On the contrary, it increases it as one of the Complainant's entities is called Sodexo Entreprises. To be noted that the Complainant is well established in Belgium, the country where the Respondent is located.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name. The Respondent is not licensed by the Complainant to use its trademark nor is it affiliated with the Complainant.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Respondent must have had knowledge of the Complainant's trademark as it is well known and fanciful. The Respondent registered the disputed domain name in order to create confusion with the Complainant's trademark to divert or mislead third parties for profit. Passive holding does not prevent a finding of bad faith when certain circumstances are met, which is the case here. There is also a risk of abusive or fraudulent use. Lastly, the Complainant believes that the Respondent is the registrant of other domain names that incorporate the Complainant's trademark.

B. Respondent

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

6. Discussion and Findings

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 other terms here, enterprises, 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.

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. Rather, there is no evidence of the use of the disputed domain name, as it has simply resolved to the Registrar’s parking page. Such use does not represent any bona fide offering nor does it confer rights or legitimate interests upon the Respondent, also given that the disputed domain name is inherently misleading as it incorporates the full name of one of the Complainant’s subsidiaries, Sodexo Entreprises.

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 finds that the Respondent was aware of the Complainant’s trademark as the disputed domain name was registered 16 years after the registration of the Complainant’s trademark and the Complainant’s trademark is fanciful and well known, and the disputed domain name incorporates the full name of one of the Complainant’s subsidiaries, Sodexo Entreprises.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and is being 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.

The disputed domain name resolves to the Registrar's parking page. Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Moreover, the Panel notes that according to the evidence provided by the Complainant, the postal address of the Respondent is similar to the respondents in other domain name dispute cases filed by the Complainant regarding various domain names incorporating the Complainant's SODEXO trademark. Some of these domain names were used for sending fraudulent emails.

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.com> be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: April 29, 2024