

ADMINISTRATIVE PANEL DECISION

**SODEXO. v. Contact Privacy Inc. Customer 0163348752 / Z Z, sodexomarket
Case No. D2022-0243**

1. The Parties

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

The Respondent is Contact Privacy Inc. Customer 0163348752, Canada / Z Z, sodexomarket, Israel.

2. The Domain Name and Registrar

The disputed domain name <sodexomarket.online> is registered with Tucows, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 25, 2022.

That same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name, and the Registrar transmitted by email its verification response disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent and contact information in the Complaint.

On February 4, 2022, the Center invited the Complainant to amend the Complaint to reflect the new registrant information received from the Registrar. On February 8, 2022, the Complainant filed an amended Complaint.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the 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 February 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 2, 2022. On February 10, 2022, the Respondent sent an email to the Center stating “[t]he site is closed and not active”. Accordingly, on March 14, 2022, the Center notified the Parties that the Center would proceed to panel appointment. On April 2, 2022, the Respondent sent a further email to the Center.

The Center appointed Steven Auvil as the sole panelist in this matter on March 22, 2022. 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

According to the Complaint, the Complainant is one of the largest food services and facilities management companies in the world. The Complainant serves over 100 million consumers and has over 420,000 employees. The Complainant serves consumers in 64 countries.

The Complainant has been using the SODEXO mark since 2008. The Complainant owns registered marks for the SODEXO brand, including *inter alia*, Canada Registration No. TMA811527 (registered November 9, 2011), Canada Registration No. TMA654335 (registered December 5, 2005), and International Registration No. 1240316 (registered October 23, 2014). The Complainant also owns domain names in connection with the SODEXO mark, including *inter alia*, <sodexo.com>, <us.sodexo.com>, <sodexousa.com>, <uk.sodexo.com.>, <sodexoprestige.co.uk>, <sodexo.fr>, <sodexoca.com>, <cn.sodexo.com>, <sodexho.fr>, and <sodexho.com>.

The disputed domain name <sodexomarket.online> was registered on December 22, 2021. At the time of this Decision, the disputed domain name resolves to a hosting parking website displaying the following information “Only one step left! To finish setting up your new web address, go to your domain settings, click “Connect existing domain”, and enter: sodexomarket.online”.

5. Parties' Contentions

A. Complainant

The Complainant alleges that the disputed domain name is confusingly similar to its SODEXO mark because the disputed domain name is the same except that it introduces a descriptive element with the word “market”. The Complainant contends that the disputed domain name is likely to deceive consumers into believing the disputed domain name is associated with the Complainant. Additionally, the Complainant alleges that the Respondent has registered the disputed domain name to point to a non-existent page that seems as though it is waiting to become an online store through a third party e-commerce platform.

The Complainant also asserts that the Respondent has no rights or legitimate interests in the disputed domain name because the Respondent is not affiliated with the Complainant and has never obtained a license from the Complainant to use the SODEXO mark. Nor was the Respondent commonly known by the disputed domain name prior to the adoption and use by the Complainant.

The Complainant further asserts that the Respondent registered or used the disputed domain name in bad faith because the Respondent knew or should have known of the Complainant's rights in the SODEXO mark when it registered the disputed domain name based on the Complainant's well-known mark and reputation. Additionally, the Complainant alleges that the Respondent has registered and is using the disputed domain name to benefit from the Complainant's reputation and to create confusion with the Complainant's mark to mislead third parties for illegitimate profit.

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

B. Respondent

The Respondent's email of February 10, 2022 did not fully respond to the Complainant's contentions besides stating “[t]he site is closed and not active”. On April 2, 2022, after the constitution of the Panel, the Respondent sent an additional email to the Center stating that it was allegedly an employee of the

Complainant and the disputed domain name was built as a demo for a customer, and was not active. The alleged employee also stated that they were told to close the site and therefore they closed the site.

6. Discussion and Findings

According to paragraph 15(a) of the Rules: “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.” Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following to obtain relief:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or a service in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

In view of the Respondent’s failure to submit a formal Response, by merely making unsupported conclusory statements and failing to specifically address the case merits as they relate to the three UDRP elements, the Panel is entitled to accept as true allegations set forth in the Complaint, unless the evidence is clearly contradictory, and to derive reasonable inferences from the evidence presented. See *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#).

Based on the foregoing guidance, the Panel makes the following findings and conclusions on the basis of the allegations and evidence contained in the Complaint and reasonable inferences drawn from the evidence.

A. Identical or Confusingly Similar

As noted above, the Complainant is the owner of several registered trademarks for SODEXO that it uses in commerce. The Panel therefore finds that the Complainant has rights in the SODEXO mark.

Section 1.8 of [WIPO Overview 3.0](#) states that “[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.”

It is further understood that when a disputed domain name fully incorporates a complainant’s registered mark, it is indicative of the disputed domain name being identical or confusingly similar. See [WIPO Overview 3.0](#), section 1.7; see also *Euronext N.V. v. Rachael Sanar, Euronext Mark et Limited*, WIPO Case No. [D2017-2138](#) (finding the addition of the descriptive term “market” is not sufficient to avoid a finding of confusing similarity); *Yeni Mağazacılık Anonim Şirketi v. He Mei Ji*, WIPO Case No. [D2021-1473](#) (finding the addition of the descriptive term “market” is not sufficient to avoid a finding of confusing similarity).

Here, the disputed domain name incorporates the Complainant’s entire SODEXO mark and the term “market”, followed by the generic Top-Level Domain (“gTLD”) “.online”. The Respondent’s addition of the word “market” to the Complainant’s SODEXO mark in the disputed domain name does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8.

Additionally, as set forth in section 1.11 of [WIPO Overview 3.0](#), the applicable gTLD (e.g., “.com”, “.site”, “.info”, “.shop”) “is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.” As such, the use of “.online” has no bearing on establishing identity or confusing similarity here. See *Calzaturificio Casadei S.p.A. V. Nancy Salvaggio*, WIPO Case No. [D2019-2329](#); *GS1 AISBL v. WhoisGuad Inc. /Elmer Robles*, WIPO Case No. [D2020-2037](#).

Therefore, the Panel finds that the Complainant has proven that the disputed domain name is confusingly similar to the Complainant's mark. Therefore, the first element of paragraph 4(a) of the Policy is met.

B. Rights or Legitimate Interests

From the Complainant's allegations and evidence as well as the inferences drawn from the evidence, the SODEXO mark is a distinctive and well-known mark registered by the Complainant. As noted, the Complainant has a worldwide presence as its millions of customers are located in numerous countries. The Complainant did not license or otherwise authorize the Respondent's use of the SODEXO mark, and moreover the Complainant confirmed it has no affiliation, association, sponsorship, or connection with the Respondent. Therefore, the Panel finds that the Complainant has made out a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

Section 2.1 of [WIPO Overview 3.0](#) provides that "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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

Here, the Respondent did not respond to the Complaint other than stating, without evidence, that the website was closed and no longer active and that it was created as a demo for a customer. The Respondent's website did not readily identify as a demo page nor inactive, as the Respondent alleges. Indeed, it appears that an online store associated with the disputed domain name was in the process of being opened when the Complaint was filed. This is not evidence of a legitimate interest in the disputed domain name. See *Philip Morris Products S.A. v. Domain Administrator, See PrivacyGuardian.org / Nguyen Hung Cuong*, WIPO Case No. [D2019-0729](#). Furthermore, although the Registrar confirmed the registrant organization of the disputed domain name as "sodexomarket", there is no evidence that the Respondent is actually commonly known by the disputed domain name, "sodexomarket", or the SODEXO mark. Rather, it appears the Respondent has chosen such registrant organization to falsely suggest an affiliation with the Complainant, as affirmed by the Respondent's April 2, 2022 email. Thus, the Respondent has failed to rebut the *prima facie* case that it lacks rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Respondent in fact has no rights or legitimate interests in the disputed domain name and that the second element of paragraph 4(a) of the Policy is satisfied.

C. Registered and Used in Bad Faith

Section 3.1.4 of [WIPO Overview 3.0](#) provides that "[p]anels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith." Additionally, section 3.2.1 of [WIPO Overview 3.0](#) provides that "[p]articular circumstances panels may take into account in assessing whether the respondent's registration of a domain name is in bad faith include: (i) the nature of the domain name (e.g., a typo of a widely-known mark, or a domain name incorporating the complainant's mark plus an additional term such as a descriptive or geographic term, or one that corresponds to the complainant's area of activity or natural zone of expansion) [...] (vi) a clear absence of rights or legitimate interests coupled with no credible explanation for the respondent's choice of the domain name, or (vii) other indicia generally suggesting that the respondent had somehow targeted the complainant."

Here, as noted above, the disputed domain name incorporates the entirety of the Complainant's registered SODEXO mark. Further, the disputed domain name resolved to a website intended to be an online store through a well-known e-commerce platform.

Although the Respondent contends that the website associated with the disputed domain name website was created as a demo for a customer, it failed to provide rebuttal evidence suggesting that it adopted the

disputed domain name in good faith. Under the circumstances, the Panel finds that the Respondent likely knew of the Complainant's SODEXO mark at the time of registration of the disputed domain name and endeavored to unfairly capitalize on the Complainant's SODEXO mark for commercial gain.

Accordingly, the Panel finds that the disputed domain name has been registered and is being used in bad faith and that the third element of paragraph 4(a) of the Policy is satisfied.

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 <sodexomarket.online> be transferred to the Complainant.

/Steven Auvil/

Steven Auvil

Sole Panelist

Date: April 5, 2022