

ADMINISTRATIVE PANEL DECISION

Sodexo v. Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico
Case No. D2022-0754

1. The Parties

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

The Respondent is Domains By Proxy, LLC, United States of America / Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The disputed domain name and Registrar

The disputed domain name <sodexobenefitscenter.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 3, 2022. On March 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 7, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on March 8, 2022, 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 12, 2022.

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 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 5, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 6, 2022.

The Center appointed William P. Knight as the sole panelist in this matter on April 12, 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.

The Center appointed William P. Knight as the sole panelist in this matter on February 3, 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

The Complainant was founded in 1966 under the name Société d'Exploitation Hôtelière and has continuously traded and grown since then, listing on the Paris Bourse in 1983. From 1966 to 2008, the Complainant promoted its business under the SODEXHO mark and trade name. In 2008, the Complainant simplified the spelling of its mark and name to SODEXO. Today, it is one of the largest companies in the world, specializing in hospitality and catering services and facilities management, with over 420,000 employees in its group serving 100 million consumers in 64 countries.

The Complainant owns a number of registered trademarks incorporating the term SODEXO, including the following:

- SODEXO in a device - Panama trademark registrations n° 167186-01 from December 12, 2007.
- SODEXO in a device -international trademark registration n° 964615 filed on January 8, 2008 under priority of the French trademark registration n° 07 3 513 766 of July 16, 2007.
- SODEXO as a word, international trademark registration n° 1240316 filed on October 23, 2014.
- SODEXO in a device - international trademark registration n° 689106 filed on January 28, 1998 based on the French trademark registration n° 96 654 774 of December 10, 1996.
- SODEXO in a device - international trademark registration n° 694302 filed on June 22, 1998 under priority of the French trademark registration n° 98 714 920 of January 27, 1998.
- SODEXO as a word, European trademark registration n° 008346462, filed on June 8, 2009.
- SODEXO in a device - European trademark registration filed on July 16, 2007 registered under n° 006104657.
- SODEXO in a device - international trademark registration n° 1195702 filed on October 10, 2013 based on CTM registration n° 011138501 of August 23, 2012.
- SODEXO in device - European trademark registration n° 011138501 filed on August 23, 2012.

The SODEXO and SODEXHO marks are registered in many other countries of the world.

The Complainant owns numerous domain names corresponding to and/or containing Sodexo or Sodexho. Sodexo group promotes its activities among others under the following domain names: <sodexo.com>, <uk.sodexo.com>, <sodexoprestige.co.uk>, <sodexo.fr>, <sodexoca.com>, <sodexousa.com>, <cn.sodexo.com>, <sodexho.fr>, <sodexho.com>.

The disputed domain name was registered on February 15, 2022.

There is no evidence that the disputed domain name has ever been used to host a website. It presently is used as a “parking page”, a page offering only pay-per-click (“PPC”) links which direct Internet users to “Employee Benefits” and “Ticket Management Software” – the former resolving to a link for “Perkbox Employee Benefits”, “Uber for usiness – Feed your employees” and others, and the latter resolving to links “#1 Help Desk Ticketing System” (Atlassian), “Service Management Leader (<momentofservice.ifs.com>) and others.

5. Parties' Contentions

A. Complainant

The Complainant submits that the disputed domain name is confusingly similar to its well-known and distinctive trademark SODEXO. The addition of the words “benefits center” does nothing to distinguish the disputed domain name from the Complainant’s trademark.

The Complainant’s reputation has been established in numerous past decisions under the UDRP, including, numerous recent determinations against the Respondent, in *Sodexo v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico* WIPO Case No. [D2019-3132](#) (sodexorewardhib.com), *Sodexo v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico* WIPO Case No. [D2020-1580](#) (sodexobenefitscenter.com), *SODEXO v. Carolina Rodrigues* WIPO Case No. [D2020-2475](#) (sodexeo.com), *Sodexo v. Domains By Proxy, LLC, DomainsByProxy.com / Carolina Rodrigues, Fundacion Comercio Electronico* WIPO Case No. [D2020-3085](#) (sodexousadefaulthome.com), *Sodexo v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico* WIPO Case No. [D2020-3426](#) (sodexobenefitscenter.com), *Sodexo v. Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico* WIPO Case No. [D2020-0310](#) (benefitssodexo.com and sodexovoya.com), *SODEXO v. Domains By Proxy, LLC, DomainsByProxy.com / Carolina Rodrigues, Fundacion Comercio Electronico* WIPO Case No. [D2021-0237](#) (sodexocareermanorcare.com and sodexowesley.com), *Sodexo v. Domains By Proxy, LLC, DomainsByProxy.com / Carolina Rodrigues, Fundacion Comercio Electronico* WIPO Case No. [D2021-0316](#) (sodexoyway.com), *Sodexo v. Domains By Proxy, LLC, DomainsByProxy.com / Carolina Rodrigues, Fundacion Comercio Electronico* WIPO case [D2021-0485](#), *Sodexo v. Carolina Rodrigues* WIPO Case No. [D2021-1408](#) (sodexobenefitcenter.com), *Sodexo v. Domains By Proxy, LLC, DomainsByProxy.com / Carolina Rodrigues, Fundacion Comercio Electronico* WIPO Case No. [D2021-1393](#) (sodexobenefitscenter.com and ussodexo.com), and *Sodexo v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico* WIPO Case No. [D2021-1735](#) (sodexobenefitcenter.com).

The Complainant further asserts that the Respondent was not commonly known by the disputed domain name prior to its adoption and use by the Complainant (as was found in all prior decisions referred to) and that the Complainant has not given permission to the Respondent to use the Complainant’s trademarks in the disputed domain name or otherwise. The Respondent uses the disputed domain name as a parking page from which are derived ‘pay-per-click’ revenues only and the Complainant says this does not constitute a legitimate business use.

The Complainant asserts that, in addition to hospitality and catering services, the Complainant provides a wide range of ancillary and primary services, including:

- On-site Services: services relating to restaurant and catering services as well as facility management services and workplace services including a wide-range of on-site services such as reception services, technical maintenance and repair, housekeeping, security, laundry, waste management, space management.
- Benefits & Rewards Services: the issue of service vouchers and cards for private and public organizations in three service categories:

- Employee Benefits to attract, engage and retain employees (such as restaurant vouchers, transport vouchers, gasoline vouchers...), intensification of digitalization of benefits & rewards services
- Incentives and Recognition to help organizations to reach their qualitative and quantitative objectives (gift vouchers, gift boxes...),
- Public Benefits to manage and control the distribution of aid and public subsidies.
- Personal & Home Services including childcare, tutoring and adult education, concierge services and home care for dependent persons.

The Complainant argues that the disputed domain name was registered at a time when the Complainant's global reputation was well established and the Respondent must have been aware of that reputation. This points to registration in bad faith. The Complainant says that the Respondent has registered the disputed domain name to use it as parking page connecting to third party providers' websites, some of which offer competing services, such as CESU (vouchers and cards services for personal & home services) and for meal vouchers. The Complainant says that this shows use in bad faith. In addition, if it is assumed that the disputed domain name was registered for the purpose of using it in some manner, there is no lawful use to which the disputed domain name could be so used, and this should be regarded as registration and use in bad faith, as required to be established by the Complainant under the Policy.

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

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that, to obtain relief under the Policy in respect of the disputed domain name, the Complainant must establish the following three elements:

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

Paragraph 15(a) of the Rules provides that the Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable. Furthermore, paragraphs 10(b) and 10(d) of the Rules provide that the Panel shall ensure that the parties are treated with equality and shall determine the admissibility, relevance, materiality, and weight of the evidence.

The standard of proof required of the Complainant is "the balance of probabilities"; see section 4.2 of WIPO Overview of WIPO Panel Views and Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"),

In addition, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under, the Rules, the Panel shall draw such inferences therefrom as it considers appropriate.

The Panel notes that the Respondent did not reply to the Complainant's contentions. The Respondent's failure to respond, however, does not automatically result in a decision in favour of the Complainant, although the Panel is entitled to draw appropriate inferences therefrom, in accordance with paragraph 14(b) of the Rules; see section 4.3 of [WIPO Overview 3.0](#).

Taking these provisions into consideration, the Panel finds as follows:

A. Identical or Confusingly Similar

For the reasons argued by the Complainant, the Panel accepts that the Complainant has established relevant trademark rights in SODEXO and that the disputed domain name is confusingly similar to the Complainant's trademark. The Complainant's trademark is clearly recognizable in the disputed domain name, and the addition of the words "benefits center" does not avoid a finding of confusing similarity.

The Panel accordingly finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires the Complainant to demonstrate that the Respondent has no rights or legitimate interests in the disputed domain name. Paragraph 4(c) of the Policy sets out a list of non-exhaustive circumstances that may suggest that a respondent has rights or legitimate interests in a domain name, including but not limited to:

"(i) before any notice to you of the dispute, [the respondent's] use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) [the respondent] (as an individual, business, or other organization) [has] been commonly known by the domain name, even if [the respondent has] acquired no trademark or service mark rights; or

(iii) [the respondent is] making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

A complainant is required to make a *prima facie* case that the respondent does not have rights or legitimate interests in the disputed domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name in question. If, however, the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the UDRP. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has asserted that the Respondent does not own any registered rights in any trademarks which comprise the dominant part of the disputed domain name and that the Complainant has not given permission to the Respondent to use the Complainant's trademark in the disputed domain name or otherwise. The Respondent was notified of the Complaint and had the opportunity to contradict these assertions of the Complainant, including by making out any of the circumstances described in paragraph 4(c) of the Policy, but did not do so.

That the Respondent has permitted the Registrar to use the disputed domain name as a parking page does not represent a *bona fide* offering, noting the "pay-per-click" links on the parking page compete with or capitalize on the reputation and goodwill of the Complainant's trademark or otherwise mislead Internet users.

The Panel therefore concludes that the Complainant has made a sufficient *prima facie* case of the Respondent's lack of rights or legitimate interests in the disputed domain name. As a result of its default, the Respondent has failed to rebut such a showing.

The Complainant has therefore satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered and is being used in bad faith.

At the outset, it must be noted that the Complainant's trademark, which is very distinctive, has such a global reach that the Respondent could not credibly claim to have been unaware of the mark. Furthermore, there can be no doubt that the Respondent registered the disputed domain name for the purpose of taking illegitimate advantage of the Complainant's trademark rights. The evidence also establishes the Respondent must have been aware of the Complainant's rights at the time of registration; if for no other reason than the numerous above-cited decisions against the Respondent. Clearly, the Respondent is a serial cybersquatter with an interest in illegitimately taking advantage of the famous trademarks of others.

In these circumstances, the Panel has no hesitation in concluding that, at the time of registration of the disputed domain name, the Respondent knew, or should have known, that its registration would be identical or confusingly similar to the Complainant's mark. See section 3.2.2 of the [WIPO Overview 3.0](#). This justifies a finding of registration in bad faith under paragraph 4(a)(iii) of the Policy.

As for use in bad faith, the Panel is guided by sections 3.3 and 3.5 of the [WIPO Overview 3.0](#). These indicate that, where there is no use of a disputed domain name or use only in the sense of permitting the Registrar to park PPC links, the totality of the circumstances in each case must be considered in order to determine whether there is the required use in bad faith. In this case, the notoriety of the Complainant's trademark and its distinctiveness along with the implausibility of any good faith use to which the disputed domain name may be put are compelling considerations. In addition, the Respondent must accept some responsibility for the parking page using the disputed domain name, automatically placed by the Registrar or not, which includes PPC links to the Complainant's competitors.

These factors lead to a conclusion that the Respondent is using the disputed domain name in bad faith as required by paragraph 4(a)(iii) of the Policy.

Therefore, the Panel is satisfied that, on the balance of probabilities, the Respondent's registration and use of the disputed domain name qualifies as bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

The Complainant has therefore satisfied paragraph 4(a)(iii) of the Policy.

7. Decision

For all 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 <sodexobenefitscenter.com> be transferred to the Complainant.

/William P. Knight/

William P. Knight

Sole Panelist

Date: April 22, 2022