

ADMINISTRATIVE PANEL DECISION

Sodexo v. Contact Privacy Inc. Customer 12412617261, Contact Privacy Inc.
Customer 12412617261 / Name Redacted
Case No. D2022-1399

1. The Parties

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

The Respondent is Contact Privacy Inc. Customer 12412617261, Contact Privacy Inc. Customer 12412617261, Canada / Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <soddexxo.com> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 20, 2022. On April 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same date, 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 April 28, 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 May 3, 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”).

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on May 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 1, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 11, 2022.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on June 23, 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, whose former name until 2008 was Sodexho Alliance, is a French company founded in 1966. The Complainant is one of the largest companies worldwide specialized in foodservices and facilities management, with 412,000 employees, serving 100 million customers in 56 countries. In 2021, the Complainant generated total revenues of EUR 17,4 billion of which 30,3% derive from services offered in North America, 31,2% in Europe and 38,5% in the rest of the world.

The Complainant is the owner of various SODEXHO and SODEXO trademarks as follows:

Trademark	Country	Type of Mark	Reg. Number	Priority/App. / Reg. Dates	Classes
	Canada	National	TMA811527	11/09/2007 - 11/09/2011	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45
	Canada	National	TMA654335	10/13/2000 - 12/5/2005	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45
	Various	International	964615	01/08/2008	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45
SODEXO	GB, IR, MZ	International	1240316	10/23/2014	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 43, 44 and 45
	Various	International	689106	01/28/1998	16, 36, 37, 39, 41 and 42
	Various	International	694302	01/27/1998 (priority)	9

SODEXO	EU	EUTM	8346462	6/8/2009 – 02/01/2010	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45
	EU	EUTM	6104657	07/16/2007 – 06/27/2008	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45
	AU, CN, USA	International	1195702	10/10/2013	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45
	EU	EUTM	11138501	08/23/2012 – 01/22/2013	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45
	UK	National	UK00800964615	01/08/2008	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45
	UK	National	UK00906104657	07/16/2007	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45
SODEXO	UK	National	UK00908346462	06/08/2009	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45

The Complainant is also the owner of various domain names including the terms “sodexo” or “sodexho”, which it uses to promote its activities, such as <sodexo.com>, <sodexousa.com>, <sodexoprestige.co.uk>, <sodexo.fr>, <sodexoca.com>, <sodexho.fr>, and <sodexho.com>.

The disputed domain name was registered on March 29, 2022, using a privacy service and giving as Registrant’s name the name of an individual with address in London, whose name and surname appear to coincide with those of an employee of the Complainant, located in Spain. At the Complainant’s request, the said employee denied any involvement in the registration and use of the disputed domain name. The disputed domain name does not lead to an active website.

5. Parties’ Contentions

A. Complainant

The Complainant maintains that the disputed domain name is confusingly similar to its trademarks and particularly to SODEXO, as the disputed domain name is identical to this mark, but for the fact that it

contains a double letter “d”, and a double letter “x”. Thus, the disputed domain name is an obvious misspelling of the SODEXO trademark, and is consequently confusingly similar to it.

The Complainant further maintains that the Respondent lacks rights or legitimate interests in the disputed domain name. According to the Whois for the disputed domain name, the Registrant’s name coincides with that of one of the Complainant’s employees located in Spain, while said employee has denied any involvement in the registration of the disputed domain name. The Complainant is not connected, in any manner whatsoever with the Respondent, and the Complainant never authorized the Respondent to make use of the Complainant’s trademark, nor to register and use the disputed domain name. The Complainant also points out that the Respondent has not been commonly known by the disputed domain name.

Regarding registration and use of the disputed domain name in bad faith, the Complainant maintains that “sodexo” is a fanciful term, and that its SODEXO trademark enjoys reputation. Furthermore, the Respondent registered the disputed domain name using the name of one of the Complainant’s employees. Therefore, there is a clear intent of the Respondent to create an association with the Complainant’s trademarks and activities in order to divert or mislead third parties for the Respondent’s illegitimate profit. The fact that the disputed domain name is passively held cannot prevent a finding of bad faith, especially under the following circumstances: (i) the reputation of the Complainant’s mark; (ii) the lack of evidence by the Respondent of any good faith use of the disputed domain name; (iii) the identity (or close similarity) of the disputed domain name with the Complainant’s trademark to mislead or divert potential web users searching for the Complainant. These circumstances are present in the case at issue, along with the fact that the disputed domain name is a typosquatting of the Complainant’s mark, which is also an indication of bad faith.

B. Respondent

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

6. Discussion and Findings

A. Preliminary Issue – Redaction of the Respondent’s name

As mentioned above, the disputed domain name is in the name of one of the Complainant’s employees who however denies any involvement in its registration. This statement, made through the Complainant, has not been rebutted by the Respondent and there is no reason for the Panel to doubt about its veracity.

Although the Complainant has not expressly asked to redact the name of his employee from this decision, the Panel finds it fair to avoid any reference to the Respondent’s name in this Decision, in order to preserve its privacy and reputation. Accordingly, the Panel has redacted the name of the Respondent from the caption and body of this Decision and has decided to follow the same approach already adopted in similar cases, by attaching as Annex 1 to this Decision an instruction to the Registrar regarding the transfer of the disputed domain name, that includes the redacted name. The Panel authorizes the Center to transmit the Annex 1 to the Registrar and the parties, but further requests, in compliance with paragraph 4(j) of the Policy and paragraph 16(b) of the Rules, the Center and the Registrar not to publish the Annex 1 to this Decision in this specific case. For previous similar cases, see *Elkjøp Nordic A/S v. Name Redacted*, WIPO Case No. [D2013-1285](#); *Pestalozzi Attorneys-at-law Ltd v. Name Redacted*, WIPO Case No. [D2019-1345](#), etc.

B. Identical or Confusingly Similar

As discussed in section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), a domain name, which consists of a common, obvious, or intentional misspelling of a trademark is usually considered to be confusingly similar to the relevant mark for purposes of the first element of the Policy. In the case at issue, despite the addition of a second letter “d” and “x”, the Complainant’s mark SODEXO is clearly recognizable within the disputed domain name, which implies a confusing similarity between the disputed domain name and the Complainant’s mark.

Therefore, the Panel is satisfied that the first condition under the Policy is met.

C. Rights or Legitimate Interests

While the overall burden of proof rests with the complainant, UDRP panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is often primarily within the knowledge of the respondent. As such, where a complainant makes a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

In the case at issue, the Panel finds that the Respondent is not authorized to register and use a domain name confusingly similar to the Complainant's trademark, and that the Respondent does not appear to have been commonly known by the name "soddexo". The disputed domain name is passively held and there is no evidence in the file that before any notice of the dispute, the Respondent was using, or made demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services, or was making a legitimate noncommercial or fair use of the disputed domain name. Moreover, noting that the disputed domain name was registered under the name of one of the Complainant's employees, the disputed domain name carries a risk of implied affiliation to the Complainant.

In view of all the above, the Panel finds that the Complainant has discharged its burden of proof that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The burden of production now shifts to the Respondent to demonstrate that it owns rights or legitimate interests in the disputed domain name. The Respondent has omitted to file a Response, and therefore has waived its right to contest the Complainant's allegations.

In light of all the circumstances mentioned above, the Panel is satisfied that the second condition under the Policy is met.

D. Registered and Used in Bad Faith

The Panel notes, in line with the Complainant's statements, that "sodexo" is an invented term and that due to its longstanding and widespread use it has gained at least a certain level of reputation. Previous UDRP Panels have also recognized that the trademark SODEXO is well known (see, among others, *Sodexo v. franck Gauthier*, WIPO Case No. [D2021-3746](#); *Sodexo v. Contact Privacy Inc. Customer 12411280262 / Richard Taylor*, WIPO Case No. [D2021-3514](#); *Sodexo v. Guy GLUCHE*, WIPO Case No. [D2021-3515](#)). Moreover, the disputed domain name includes a typo of the trademark SODEXO and this circumstance creates a presumption of bad faith (See [WIPO Overview 3.0](#), section 3.1.4).

Therefore, it is not credible that the Respondent registered the disputed domain name without having the Complainant's trademark in mind. The fact that the disputed domain name has been registered under the name of one of the Complainant's employees, while the latter denies any involvement in the said registration is a further indication that the Respondent targeted the Complainant and its trademark when it decided to register a confusingly similar domain name.

For all the reasons mentioned above, the Panel is satisfied that the disputed domain name was registered in bad faith.

With respect to use in bad faith, the Panel notes that the fact that the disputed domain name is passively held cannot prevent a finding of bad faith. In particular, the following factors have already been considered relevant in applying the so-called doctrine of passive holding: (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, (iii) the respondent's concealing its identity or use of false contact details, and (iv) the implausibility of any good faith use to which the domain name may be put (see section 3.3. of the [WIPO Overview 3.0](#)). As mentioned above, "sodexo" is a coined word, and the SODEXO

trademark enjoys reputation. The Complainant's mark is highly distinctive and uniquely associated to the Complainant. The disputed domain name is a typosquatting of the Complainant's trademark SODEXO. The Respondent failed to submit a Response and to provide evidence of actual or contemplated good-faith use of the disputed domain name. The Respondent concealed its identity by using a privacy service and provided false contact details at the time of the registration of the disputed domain name. In light of all the circumstances of the case, the Panel does not believe that the Respondent could ever make a plausible good faith use of the disputed domain name as any use of it would mislead the Internet users searching for the Complainant as to the origin of the disputed domain name.

In consideration of the foregoing, the Panel concludes that the disputed domain name was registered and used in bad faith

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 <soddexxo.com> be transferred to the Complainant.

/Angelica Lodigiani/

Angelica Lodigiani

Sole Panelist

Date: July 7, 2022