

## ADMINISTRATIVE PANEL DECISION

Sodexo v. Privacy Service Provided by Withheld for Privacy ehf / Name Redacted

Case No. D2022-1436

### 1. The Parties

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

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Name Redacted.<sup>1</sup>

### 2. The Domain Name and Registrar

The disputed domain name <fr-sodexo.com> is registered with NameCheap, Inc. (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 21, 2022. On April 22, 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 27, 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 April 29, 2022.

On May 4, 2022, the Complainant informed the Center, providing supporting evidence, that an email address associated with the disputed domain name was used, as appeared, in a phishing attempt.

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

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<sup>1</sup> 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Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case.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](#).

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 May 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 8, 2022.

On May 19 and 25, 2022, the Respondent sent email communications to the Center claiming to be an employee of the Complainant’s subsidiary and a true holder of the disputed domain name. By email of May 24, 2022, the Complainant asserted that the Respondent was impersonating identity of a former employee of the Complainant’s subsidiary and that neither “Sodexo Entreprises” nor another Sodexo entity registered the disputed domain name. On the same day, the Complainant enclosed two requests that it had received from companies which were inquiring about fraud and had been both contacted by the Respondent.

On June 11, 2022, the Center notified the Parties that it would proceed to panel appointment.

The Center appointed William Lobelson as the sole panelist in this matter on June 27, 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 is Sodexo, one of the largest companies in the world specialized in food services and facilities management. It owns several trademark registrations for SODEXO and SODEXHO:

SODEXO, International trademark registration n° 964615 dated January 8, 2008 in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45 protected in the following countries: Armenia, Australia, Azerbaijan, Bosnia and Herzegovina, Bahrain, Belarus, Switzerland, China, Algeria, Egypt, European Community, Islamic republic of Iran, Iceland, Israel, Japan, Kyrgyzstan, Democratic People’s Republic of Korea, Republic of Korea, Kazakhstan, Lesotho, Morocco, Monaco, Republic of Moldova, Montenegro, Mongolia, Namibia, Norway, Serbia, Russian Federation, Singapore, Turkey, Ukraine, United States of America, Uzbekistan and Vietnam.

SODEXO, International trademark registration n° 1240316 dated October 23, 2014 in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45; protected in the following countries: Islamic republic of Iran, Mozambique and United Kingdom;

SODEXHO, International trademark registration n° 689106 dated January 28, 1998, in international classes 16, 36, 37, 39, 41 and 42 protected in the following countries: Armenia, Austria, Azerbaijan, Benelux, Belarus, Switzerland, China, Czech Republic, Germany, Denmark, Algeria, Egypt, Spain, Finland, United Kingdom, Greece, Hungary, Iceland, Italy, Japan, Democratic People’s Republic of Korea, Kazakhstan, Latvia, Morocco, Monaco, Montenegro, Norway, Poland, Portugal, Romania, Serbia, Russian Federation, Sweden, Slovenia, Slovakia, Ukraine, Vietnam.

SODEXHO, International trademark registration n° 694302 dated June 22, 1998, in international class 9 protected in the following countries: Armenia, Austria, Azerbaijan, Benelux, Belarus, Switzerland, China, Czech Republic, Germany, Denmark, Algeria, Egypt, Spain, Finland, United Kingdom, Greece, Hungary, Iceland, Italy, Japan, Democratic People’s Republic of Korea, Kazakhstan, Latvia, Morocco, Monaco, Montenegro, Norway, Poland, Portugal, Romania, Serbia, Russian Federation, Sweden, Slovenia, Slovakia, Ukraine, Vietnam.

SODEXO, European Union Trade Mark registration filed on June 8, 2009, registered on February 1, 2010 under n° 008346462, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45;

SODEXO, European Union Trade Mark registration filed on July 16, 2007, registered on June 27, 2008 under n° 006104657, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45;

SODEXO QUALITY OF LIFE SERVICES, International trademark registration n° 1195702 dated October 10, 2013 in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45 protected in the following countries: Australia, China, United States of America.

SODEXO QUALITY OF LIFE SERVICES, European Union Trade Mark registration filed on August 23, 2012 registered on January 22, 2013 under n° 011138501 in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45.

The Complainant also owns the domain names: <sodexo.com>, <uk.sodexo.com>, <sodexoprestige.co.uk>, <sodexo.fr>, <sodexoca.com>, <sodexousa.com>, <cn.sodexo.com>, <sodexho.fr> and <sodexho.com>.

The Complainant has been advised of the registration of the disputed domain name <fr-sodexo.com> on April 18, 2022.

The corresponding website at the disputed domain name redirects to a parking page containing links related to third parties' restaurant and catering services.

The Complainant filed a UDRP Complaint on April 21, 2022 and obtained the disclosure of the Respondent's identity that appeared to be the name of one of its former employees, now retired, with an address corresponding to the Complainant's headquarters.

## **5. Parties' Contentions**

### **A. Complainant**

The Complainant claims that the disputed domain name is confusingly similar to its earlier trademarks formed with the word "sodexo"; that the Respondent does not have any rights or legitimate interests therein; finally, that the Respondent registered and uses the disputed domain name in bad faith, being emphasized that the disputed domain name routes to a pay-per-click page (dedicated to web sites referring to the same field of activity as the Complainant's) and that the Respondent declared a name that is identical to one of the Complainant's former employees.

The Complainant requests the transfer of the disputed domain name.

### **B. Respondent**

The Respondent did not reply to the Complainant's contentions in the frame of the present Complaint.

The Respondent simply sent email communications to the Center on May 19 and 25, 2022, claiming to be an employee of the Complainant's subsidiary and a true holder of the disputed domain name.

It is however pointed out, for the sake of completeness, that the Complainant asserted in reply to the Center that the Respondent was in fact impersonating identity of a former employee of the Complainant's subsidiary.

## **6. Discussion and Findings**

Notwithstanding the lack of formal response, it remains incumbent on the Complainant to make out its case in all respects under the rules set out in paragraph 4(a) of the Policy. Namely, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (paragraph 4(a)(i));
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name (paragraph 4(a)(ii)); and
- (iii) the disputed domain name has been registered and is being used in bad faith (paragraph 4(a)(iii)).

#### **A. Identical or Confusingly Similar**

The Complainant is the owner of numerous SODEXO trademarks.

The disputed domain name reproduces the Complainant's trademark SODEXO in its entirety.

The presence of the country code "fr", that corresponds to France, which is besides the home country of the Complainant before the SODEXO trademark in the disputed domain name does not prevent a finding of confusing similarity between the Complainant's trademark and the disputed domain name..

Similarly, the addition of the Top-Level Domain ("TLD") ".com" is irrelevant, as it results from a technical constraint, and in any event does not prevent a finding of confusing similarity between the trademark SODEXO and the disputed domain name.

Consequently, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

#### **B. Rights or Legitimate Interests**

To demonstrate rights or legitimate interests in a domain name, non-exclusive respondent's defenses under UDRP, paragraph 4(c) include the following:

- (i) before any notice of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed 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 disputed 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 disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel notes that the Respondent has not replied to the Complainant's contentions and thus did not deny them, nor brought any information or evidence for demonstrating any rights or legitimate interests, apart from a non-official communication whereby the Respondent claimed to be an employee of the Complainant.

The Complainant has confirmed that the said employee had in fact been impersonated by the Respondent.

The Panel notices besides that the Complainant has established that the said employee is in fact a former employee who is now retired. Even if the Respondent was really that person, it would not in any case have any legitimate interest in registering the disputed domain name in its own name, being no longer an employee of the Complainant.

The Complainant has thus demonstrated that the Respondent does not have any rights or legitimate interests in the disputed domain name, particularly by asserting that the Respondent is not affiliated with it in any way and that it never authorized the Respondent to use its trademark as part of the disputed domain

name.

The Complainant further contends that the Respondent is not known under the disputed domain name and does not make any *bona fide* use nor legitimate noncommercial or fair use of the same. The composition of the disputed domain name leads to believe that it is owned and/or controlled by the Complainant and directs to one of its specific web pages dedicated to the French market. Further to section 2.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the use of a domain name to host a parked page comprising pay-per-click links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users.

The Panel finds that the Complainant has met the requirement under the Policy of showing that the Respondent does not have any rights or legitimate interests in the disputed domain name.

Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

The Complainant has substantiated the fact that its trademark SODEXO, which has been registered and used in France and internationally for years, now benefits from a high level of public awareness.

It therefore appears very unlikely that the Respondent could not be aware of the Complainant's rights in the trademark SODEXO when it sought to register the disputed domain name.

The Complainant also contends that when the identity of the Respondent was eventually disclosed by the Registrar pursuant to the introduction of the present Complaint, it was found that the Respondent had used the same name as that of one of the Complainant's former employees, and an address corresponding to the address of the Complainant's headquarters.

The Complainant asserts that its former employee did not seek to register the disputed domain name and is not the Respondent.

The Panel has therefore no reason to question the accuracy of the Complainant's assertion that the Respondent fraudulently impersonated one of the Complainant's former employees, and used false information to register the disputed domain name.

For this Panel, the above is a clear indication that the Respondent necessarily had the Complainant's trademark in mind when he registered the disputed domain name.

The Complainant has also substantiated that the disputed domain name was used to resolve to a pay-per-click page, where sponsored links were being parked. Those links directed to third parties' web pages relating to services in the field of catering and restaurants, which happens to be the very core business of the Complainant.

The Respondent is therefore making use of the Complainant's mark in relation with services that are identical to those in respect of which the mark SODEXO is used and protected.

Besides, it has been decided in earlier UDRP decisions that a respondent that uses a domain name with automatically generated pay-per-click links cannot disclaim responsibility and such content would be sufficient to conclude to a finding of bad faith, as reported in the [WIPO Overview 3.0](#), section 3.5.

The Panel infers from the above that the Respondent acted in bad faith when it registered the disputed domain name and that it is using the disputed domain name in bad faith.

Accordingly, the Complainant has satisfied paragraph 4(a)(iii) 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 <fr-sodexo.com> be transferred to the Complainant.

*/William Lobelson/*

**William Lobelson**

Sole Panelist

Date: July 11, 2022