

ADMINISTRATIVE PANEL DECISION

Sodexo v. Juan Prieto
Case No. D2022-3576

1. The Parties

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

Respondent is Juan Prieto, United States of America.

2. The Domain Name and Registrar

The disputed domain name <sodexona.com> (the “Domain Name”) 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 September 27, 2022. On September 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 30, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name, which differed from the named Respondent (Registration Private, Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on the same day, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on October 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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on October 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 24, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 24, 2022.

The Center appointed Dinant T. L. Oosterbaan as the sole panelist in this matter on October 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

Complainant was founded in 1966 and it is a company specialized in foodservices and facilities management. Complainant has 412,000 employees, serving daily 100 million consumers in 56 countries.

For fiscal year 2021, consolidated revenues reached EUR 17.4 billion which represent by region: 39% North America, 42% Europe, 19% Asia-Pacific, Latin America, Middle East and Africa.

Complainant owns numerous trademarks for SODEXO, including:

- International Trademark No. 964615, date of registration January 8, 2008, also applicable in the United States,
- European Union trademark number 008346462, filing date June 8, 2009 and registration date January 2, 2010;

Complainant also owns numerous websites containing the SODEXO mark, including <sodexo.com>.

The Domain Name <sodexona.com> was registered on September 20, 2022. The Domain Name resolves to a parking page website containing pay-per-click links.

The trademark registrations of Complainant were issued prior to the registration of the Domain Name.

5. Parties' Contentions

A. Complainant

Complainant submits that the Domain Name is confusingly similar to its SODEXO trademark. According to Complainant, the Domain Name is composed of the sign SODEXO with the addition of the letters "n" and "a" which are usually used to designate North America. In the Domain Name, the sign SODEXO keeps its individuality and is clearly perceived by consumers as the predominant part of the Domain Name. The addition of the geographic abbreviation "na" is inoperative to distinguish it from Complainant's trademark.

According to Complainant, Respondent has no rights or legitimate interests in respect of the Domain Name. The Domain Name has been registered in the name of Juan Prieto domiciled in the United States, who is unknown to Complainant. Complainant submits that Respondent is not commonly known by the Domain Name prior to the adoption and use by Complainant of the SODEXO mark. Moreover, Respondent does not have any affiliation, association, sponsorship or connection with Complainant and has not been authorized, licensed or otherwise permitted by Complainant to register and use the Domain Name. Complainant, which has recently faced several attacks, fears a possible fraudulent use of the Domain Name, notably to perpetrate email scams sent to its clients requesting payment of false invoices on fake Sodexo bank accounts.

According to Complainant, the Domain Name was registered and is being used in bad faith. The trademark SODEXO is purely fanciful and nobody could legitimately choose this word or any variation thereof, unless seeking to create an association with Complainant's activities. Given the well-known character and reputation of the SODEXO mark, Respondent knew of its existence when he registered the Domain Name so that he perfectly knew that he had no rights or legitimate interests in the Domain Name and that he

cannot lawfully use it. Complainant asserts that Respondent is using the Domain Name by exploiting the confusion with the well-known SODEXO mark to attract Internet users and to incite them to click on third party commercial links. This is an intentional attempt to attract, for commercial gain, Internet users to unrelated websites by creating a likelihood of confusion with the well-known mark SODEXO. Complainant adds that use of the Domain Name in connection with a pay-per-click parking website which attracts and redirects Internet users to websites of Complainant's competitors as well as to some other unrelated websites is solely for the purpose of achieving commercial gain and thus constitute bad faith registration and use.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel to "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 requires that the complainant prove each of the following three elements to obtain an order that the disputed domain name should be transferred or cancelled:

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

The Panel will proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in this proceeding.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, Complainant must, first of all, establish rights in a trademark or service mark, and secondly, that the Domain Name is identical or confusingly similar to that trademark or service mark.

Complainant has established that it is the owner of several trademark registrations for SODEXO. The Domain Name incorporates the trademark SODEXO in its entirety, with the addition of the two letters "na", which may refer to the geographic term "North America". Many UDRP panels have found that a disputed domain name is confusingly similar to a trademark where the relevant trademark is recognizable within the disputed domain name. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). The generic Top-Level Domain ("gTLD") ".com" is generally disregarded under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#).

The Panel finds that Complainant has proven that the Domain Name is confusingly similar to Complainant's trademarks under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

In the opinion of the Panel, Complainant has made a *prima facie* case that Respondent lacks rights or legitimate interests in the Domain Name. Complainant has not licensed or otherwise permitted Respondent to use any of its trademarks or to register the Domain Name incorporating its trademarks. Respondent is not

making a legitimate noncommercial or fair use of the Domain Name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademarks of Complainant.

Based on the undisputed submission and evidence provided by Complainant the Domain Name resolves to a pay-per-click parking page with sponsored links, including links to websites of competitors of Complainant. The Panel does not consider such use a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use of the Domain Name.

In addition, the website under the Domain Name does not accurately and prominently disclose the relationship between Respondent and Complainant as the holder of the SODEXO trademark, in particular as there has never been any business relationship between Complainant and Respondent. Respondent is also not commonly known by the Domain Name nor has it acquired any trademark or service mark rights.

No Response to the Complaint was filed and Respondent has not rebutted Complainant's *prima facie* case.

Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the Domain Name under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Pursuant to paragraph 4(b)(iv) of the Policy, there is evidence of registration and use of a domain name in bad faith in the event Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location by creating a likelihood of confusion with the trademark of Complainant as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service offered on Respondent's website or location.

Prior Panel decisions have already underlined that the fanciful trademark SODEXO enjoys a wide reputation and is well known (see recently *Sodexo v. Privacy service provided by Withheld for Privacy ehf / benoit Fournier*, ASSYTEM ENGINEERING, WIPO Case No. [D2022-3101](#), and earlier *Sodexo v. Domains By Proxy, LLC, DomainsByProxy.com / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-3085](#)). The Panel agrees and considers that the well-known character of the SODEXO trademarks is established. Noting the status of the well-known SODEXO mark and the overall circumstances of this case, the Panel finds it more likely than not that Respondent knew or in any event should have known Complainant's SODEXO mark when registering the Domain Name, and thus that there is bad faith registration.

The Panel notes that the Domain Name resolves to a pay-per-click website which incorporates Complainant's trademark in its entirety and which also links to competitors of Complainant. This indicates, in the circumstances of this case, that Respondent registered and uses the Domain Name with the intention to attract, for commercial gain, Internet users to the website by creating a likelihood of confusion with the trademarks of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

The Panel finds that Complainant has proven that the Domain Name has been registered and is being used in bad faith and paragraph 4(a)(iii) of the Policy has been 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 Domain Name, <sodexona.com>, be transferred to Complainant.

/Dinant T. L. Oosterbaan/

Dinant T. L. Oosterbaan

Sole Panelist

Date: November 9, 2022