

ADMINISTRATIVE PANEL DECISION

SODEXO v. Mr FOY, Sodexo Business

Case No. D2022-3644

1. The Parties

- 1.1 The Complainant is SODEXO, France, represented by Areopage, France.
- 1.2 The Respondent is Mr FOY, Sodexo Business, United States of America (“United States”).

2. The Domain Name and Registrar

- 2.1 The disputed domain name <sodexoglobal.network> (the “Domain Name”) is registered with Google LLC (the “Registrar”).

3. Procedural History

- 3.1 The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 19, 2022. At about the time the Complaint was filed, the registrant data available on publicly available Whois for the Domain Name, recorded the registrant as the Registrar’s privacy or proxy service (Contact Privacy Inc. Customer 7151571251). On October 3, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 4, 2022, the Registrar transmitted by email to the Center its verification response disclosing underlying registrant and contact information for the Domain Name. The Center sent an email communication to the Complainant on October 4, 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 October 4, 2022.
- 3.2 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”).
- 3.3 In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on October 10, 2022.
- 3.4 On October 21, 2022 the Complainant’s representative received an email which contained the following statement:

"We received your notice regarding 'Sodexo' domain names.

I [Mr] Foy, have no knowledge of these domain names and do not want to contest their ownership.

Please advise on these letter [sic]."

3.5 The Complainant then entered into email correspondence with what appeared to be the registrant of the Domain Name with a view to establishing whether the Domain Name (together with 4 other domain names that incorporated the term "sodexo") would be voluntarily transferred to the Complainant. The case was also suspended at the request of the Complainant, but was then reinstated as of October 28, 2022.

3.6 On October 29, 2022, the Center received an email attaching a letter from Pachiwicz Goldenring, a firm of attorneys in California. The letter stated as follows:

"Our client received correspondence from you dated October 10, 2022. At no time has our client received a copy of any Complaint. There is no jurisdiction for any proceeding and by this correspondence, jurisdiction is not admitted relative to your organization.

If you would like us to review on behalf of our client the alleged Complaint, including any annexes, please forward them to the undersigned via email [email address provided]

We provide this correspondence to you as a matter of professional courtesy given the lack of jurisdiction and reserve all rights. Indeed, by correspondence, which is the only document that I have, we do not know what domain names are at issue, as your letter is silent in that regard."

3.7 Who exactly the "client" was that was referred to in this attorney's letter was not stated, but presumably it was the individual who had described himself as "Mr Foy". On November 2, 2022, the Center responded to this letter by email, explaining that the Complaint had been brought under the UDRP as incorporated into the registration agreement for the Domain Name and provided a further copy of the amended Complaint and annexes to the same.

3.8 In accordance with the Rules, paragraph 5, the due date for Response was November 2, 2022. The Center informed that the Parties that it would proceed to Panel Appointment on November 3, 2022.

3.9 On November 3, 2022, Pachiwicz Goldenring, sent a further email attaching a letter directed to the Center. The letter stated as follows:

"Please be advised that our client is NOT related to the [Domain Name]. Therefore, any effort to obtain jurisdiction or orders associated therewith are invalid because the proper person has not been notified, who is someone other than our client."

3.10 The Center appointed Matthew S. Harris as the sole panelist in this matter on November 10, 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

4.1 The Complainant is a company incorporated in France. It was founded in 1966 (initially using the name "Sodexo Alliance") and is one of the largest companies in the world providing food services and facilities management. It has over 400,000 employees in 56 countries and in 2021 fiscal year had

consolidated revenues in excess of EUR 17 billion. Just under 40% of these revenues originated from North America. From 1966 to 2008, the Complainant promoted its business under the name “Sodexho”. From 2008 to date it has used the name “Sodexo”.

4.2 The Complainant is the owner of numerous registered trade marks that incorporate or comprise the term “sodexo”. They include:

(i) International trade mark registration no 964615, SODEXO, filed on January 8, 2008 (relying upon an early French trade mark registration) in, *inter alia*, classes 9, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45 and proceeding to grant in numerous territories, including the United States, and taking the following form:



(ii) European trade mark registration no 008346462, SODEXO, filed on June 8, 2009 in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45 as a word mark.

(iii) International trade mark registration no 1240316, SODEXO, filed on October 23, 2014 in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45 as a work mark proceeding to registration in the United Kingdom and two other countries; and

4.3 The Complainant promotes its activities from a website operating from the domain name <sodexo.com> as well as website operating from a number of other domain names that incorporate the term “sodexo”.

4.4 The Domain Name was registered on September 15, 2022. It does not appear to have been used for any active website since registration.

5. Parties' Contentions

A. Complainant

5.1 The Complainant describes its business and marks. It contends that its SODEXO mark has a strong reputation and is well known all over the world. This is said to have been recognised in a number of previous decisions under the Policy and the Complainant provides quotes from various decisions in this respect. A number of the quotations provided also record that “sodexo” is an “invented term”. The Domain Name is said to be confusingly similar to the Complainant’s mark in that it includes the SODEXO mark, which is said to form the dominant part of the Domain Name to which the “banal” and merely descriptive term “global” has been added.

5.2 The Complainant further contends that the “Sodexo Business”, the name of the organisation identified by the Registrar as the registrant of the Domain Name “does not exist”. It is also alleged that the Respondent used the name “Mr Foy” for the purpose of impersonating an employee from “Sodexo Business”. What appears to be being alleged here (and this is more clearly and directly asserted later in the Complaint) is that by using the “Sodexo Business” name the Respondent is impersonating an employee of the Complainant or a related corporate entity.

5.3 The Complainant asserts that the Respondent has no rights or legitimate interest in the Domain Name and has been registered and used in bad faith. In this respect it contends that the term “sodexo” is purely fanciful, and that no one could legitimately choose this word or any variation thereof, unless seeking to create an association with the Complainant. The Complainant also appears to be alleging (by way of a quotation from the decision in *Sony Kabushiki Kaisha also trading as Sony Corporation v. Inja, Kil*, WIPO Case No. [D2000-1409](#)) that it is inconceivable that the Respondent could make any

active use of the Domain Name without creating a false impression of association with the Complainant. Further, it contends that the registration of the Domain Name in a manner that seeks to impersonate an employee of the Complainant, was fraudulent and that this also demonstrates bad faith.

B. Respondent

5.4 No formal Response was filed by the Respondent, although the Panel notes that the Complainant sent a communication to a registrant relevant email address regarding the Domain Name, and the Center also received two letters from attorneys that appear to act for “Mr Foy”. What exactly was said in that email and those letters has already been described in some detail in the Procedural History section of this decision above.

6. Discussion and Findings

6.1 There are no exceptional circumstances within paragraph 5(f) of the Rules so as to prevent the Panel from determining the dispute based upon the Complaint, notwithstanding the failure of any Respondent to lodge a Response.

6.2 To succeed in these proceedings the Complainant must make out its case in all respects under paragraph 4(a) of the Policy. Namely, the Complainant must prove that:

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

6.3 However, under paragraph 14(b) of the Rules, where a party does not comply with any provision of the Rules, the Panel shall “draw such inferences therefrom as it considers appropriate”.

A. Identical or Confusingly Similar

6.4 The Complainant has satisfied the Panel that it has registered trade mark rights in the term “sodexo” in numerous territories. In order to demonstrate the first element of the Policy, it is usually sufficient for a complainant to show that the relevant mark is “recognizable with the disputed domain name” (see section 1.7 of the [WIPO Overview 3.0](#)).

6.5 The Domain Name can only be sensibly understood as the term “sodexo” combined with the ordinary word “global” and the “.network” generic Top-Level Domain. The Complainant’s mark is, therefore, clearly recognisable in the Domain Name.

6.6 The Complainant has, therefore, satisfied the Panel that the Domain Name is confusing similar to a trade mark in which it has rights and it has thereby made out the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests and Registered and Used in Bad Faith

6.7 It is usual for panels under the Policy to consider the issues of rights or legitimate interests and registration and use in bad faith in turn. However, in this case it is more convenient to consider those issues together.

- 6.8 The Panel accepts that the Domain Name has been registered fraudulently in the sense that the registration falsely impersonated the Complainant by using the name “Sodexo Business” as the name of the registrant. There is no other obvious explanation as to why “Sodexo Business” was given as the name of the Respondent, bearing in mind the fact that “Sodexo” not have any meaning that is not associated with the Complainant’s name, business and marks.
- 6.9 The Panel notes that the registration details provided for the Domain Name also identify a “Mr Foy” and that someone using that name contacted the Center about these proceedings both directly and subsequently through attorneys. Those attorneys curiously did not expressly identify who their “client” was, merely calling into question the jurisdiction of the Center and claiming that their “client” had nothing to do with the Domain Name. However, regardless of whether a real “Mr Foy” exists does not make a difference to the Panel’s finding of fraudulent impersonation. Indeed, if “Mr Foy” does exist and his contentions are correct, then he is yet another victim of fraudulent impersonation by the Domain Name’s underlying registrant.
- 6.10 The exact reason why the Respondent has fraudulently impersonated the Complainant is not clear. However, ultimately it does not matter. There is no right or legitimate interests in holding a domain name in a manner that fraudulently impersonates another (see, for example, *Vestey Group Limited v. George Collins*, WIPO Case No. [D2008-1308](#)). Registering and holding a domain name using false details that impersonate another also arguably falls within the example of circumstances indicating bad faith registration and use set out in paragraph 4(b)(iv) of the Policy. However, whether or not this activity neatly falls into this category, such actions nevertheless constitute a clear-cut example of bad faith registration and use.
- 6.11 In the circumstances, the Panel finds that the Complainant has made out the requirements of paragraphs 4(a)(ii) and 4(a)(iii) of the Policy.

7. Decision

- 7.1 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 <sodexoglobal.network> be transferred to the Complainant.

/Matthew S. Harris/

Matthew S. Harris

Sole Panelist

Date: November 24, 2022