

## **ADMINISTRATIVE PANEL DECISION**

Sodexo v. Rafaela Sousa Pereira Gomes, SODEXO  
Case No. D2022-3796

### **1. The Parties**

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

The Respondent is Rafaela Sousa Pereira Gomes, SODEXO, Brazil.

### **2. The Domain Name and Registrar**

The disputed domain name <sodexosa.marketing> is registered with Google Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) in English on October 11, 2022. On October 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 12, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 26, 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 in English on October 31, 2022. On October 26, 2022, the Center sent a communication to inform the parties in English and Portuguese that the language of the Registration Agreement for the disputed domain name is Portuguese, and invited the Parties to comment on the language of the proceeding. The Complainant requested on October 27, 2022 that English to be the language of the proceeding.

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 in English and Portuguese of the Complaint, and the proceedings commenced on November 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 24, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 28, 2022.

The Center appointed Gonçalo M. C. Da Cunha Ferreira as the sole panelist in this matter on December 16, 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 a French company (previously called Sodexho Alliance) founded in 1966 and is one of the largest companies in the world specialized in food services and facilities management. The Complainant is also one of the largest employers worldwide with 412,000 employees serving 100 million consumers in 56 countries.

For fiscal year 2021, the Complainant's consolidated revenues reached EUR 17.4 euros which is represented by regions as: 39% North America, 42 % Europe, 19 % Asia Pacific, Latin America, Middle east and Africa.

The Complainant is listed as one of "The world's Most Admired Companies" by Fortune Magazine.

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 and changed its logo to SODEXO. The Complainant provides a wide range of services under its trade name and mark SODEXO (prior SODEXHO) through on-site services, benefit and reward services as well as personal and home services, including:

- On-site Services: these services related 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, and etc.

- Benefits & Rewards Services: the Complainant issues service vouchers and "cards" for private and public organizations in three service categories:

- (a) employee benefits to attract, engage, and retain employees (such as restaurant vouchers, transport vouchers, gasoline vouchers, among others);
- (b) incentives and recognition to help organizations to reach their qualitative and quantitative objectives (gift vouchers, gift boxes, among others); and
- (c) public benefits to manage and control the distribution of aid and public subsidies.

- Personal & Home Services: childcare, tutoring and adult education, concierge services and home care for dependent persons.

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

The SODEXO/SODEXHO mark is continuously and extensively used and registered worldwide:

- SODEXO, International Trademark Registration No. 964615, filed on January 8, 2008, renewed in 2018, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45, designating multiple jurisdictions.

- SODEXO, International Trademark Registration No. 1240316, filed on October 23, 2014, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45, designating several jurisdictions.

- SODEXO, European Union Trademark Registration No. 008346462, registered on February 1, 2010, renewed in 2019, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45.
- SODEXO, Brazilian Trademark Registration No. 829531874, registered on March 17, 2015, in international classe 9.
- SODEXHO, International Trademark Registration No. 689106, filed on January 28, 1998, renewed in 2018, in international classes 16, 36, 37, 39, 41 and 42, designating multiple jurisdictions.

The SODEXO/SODEXHO mark has a strong reputation and is widely known all over the world and has been already recognized, among others, in the following recent cases under the UDRP:

- *Sodexo v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1580](#): “Further, the Complainant’s business is truly international and of such a size and scope that it has developed a very substantial reputation and goodwill as has been recognized by previous UDRP panels.”
- *Sodexo v. Contact Privacy Inc. Customer 1247189803 / NorAm Accounts Receivable*, WIPO Case No. [D2020-1683](#): “The Domain Name is almost identical to the Complainant’s well-known trademark.”
- *SODEXO v. Super Privacy Service LTD c/o Dynadot / Zhichao*, WIPO Case No. [D2020-1762](#): “[...] the Respondent’s registration of the Disputed Domain Names that are confusingly similar to the Complainant’s well-known SODEXO Mark is sufficient evidence of bad faith registration and use.”
- *SODEXO v. Zhichao Yang (杨智超)*, WIPO Case No. [D2020-2286](#): “In the absence of a Response from the Respondent, the Panel is satisfied that the Respondent most likely knew of the existence of the Complainant’s trademark at the time of registering the Domain Names given the widespread fame of the Complainant and the SODEXO trademark.”
- *SODEXO v. Ashutosh Dwivedi, Food & Beverages*, WIPO Case No. [D2020-2686](#): “The Mark is sufficiently distinctive and well-known such that it is difficult to conceive of any use that the Respondent might make of the disputed domain name without the Complainant’s consent that would not involve bad faith.”

The Panel notes, in line with the Complainant’s statements, that “Sodexo” and “Sodexho” are invented terms and that due to its longstanding and widespread use they have gained at least a certain level of reputation. Previous UDRP panels have also recognized that the trademark SODEXO is well known. See *Sodexo v. Contact Privacy Inc. Customer 12412617261, Contact Privacy Inc. Customer 12412617261 / Name Redacted*, WIPO case No. [D2022-1399](#).

The disputed domain name was registered on September 28, 2022, and resolves to an inactive page.

## 5. Parties’ Contentions

### A. Complainant

The Complainant contends that the three requirements of paragraph 4(a) of the Policy are met.

The Complainant states that the disputed domain name is identical or confusingly similar to the marks SODEXHO and SODEXO in which the Complainant has rights.

The Complainant contends that the element “sa”, and the Top-Level Domain (“TLD”) “.marketing” are either understood as the abbreviation of the French type of legal entity “Société Anonyme”, or the geographical abbreviation for “South Africa”, and the addition of the element “sa” in the disputed domain name is inoperative to distinguish it from the Complainant’s mark SODEXO.

The Complainant underlines that no matter how the element “sa” is understood, the risk of confusion or association with the SODEXO mark is stronger as the holding company of the Sodexo group is usually identified as Sodexo SA, and the Complainant has activities in South Africa. In the disputed domain name, the trademark SODEXO remains dominant and keeps its individuality and attractive character.

The Complainant’s evidence shows that its mark SODEXHO/SODEXO has a strong reputation and is widely known all over the world and states that previous UDRP Panels have already recognized the well-known character of the mark SODEXHO/SODEXO in many decisions. The Complainant contends that given the reproduction of the SODEXO mark, the public will believe that the disputed domain name comes from the Complainant or is linked to the Complainant.

The disputed domain name is currently inactive. However, the Complainant, which has recently faced several attacks, fears a possible fraudulent use of the disputed domain name, notably to perpetrate email scam sent to its clients requesting payment of false invoices on fake bank account of the Complainant.

Moreover, the Complainant argues that the Respondent does not have any affiliation, association, sponsorship or connection with the Complainant and has not been authorized, licensed or otherwise permitted by the Complainant or by any subsidiary or affiliated company to register the disputed domain name and to use it.

According to the Complainant’s knowledge, the Respondent, whatever its identity, has no rights nor legitimate interests in the disputed domain name as it has no rights in “Sodexo” as a corporate name, trade name, shop sign, mark, or domain name that would be prior to the Complainant’s rights in SODEXO.

Finally, the Complainant contends that the Respondent not only knows the SODEXO mark but wants to benefit from its reputation, therefore, the Respondent registered the disputed domain name with actual knowledge of the Complainant’s rights in the mark SODEXO very likely for the purpose of creating confusion with the Complainant’s mark to divert or mislead third parties into believing that the disputed domain name is somehow connected to the Complainant for the Respondent’s illegitimate profit.

Therefore, the Complaint argues that the unauthorized registration of the disputed domain name by the Respondent and its passive holding of the disputed domain name, likely in the aim of fraudulent uses, are for the purpose of commercial gain and then constitute bad faith registration and use.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Procedural Issue: Language of the Proceeding**

Paragraph 11(a) of the Rules provides that “unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding”. The Registrar has confirmed that the language of the Registration Agreement for the disputed domain name is Portuguese.

The Complainant requested English to be the language of the proceeding while the Respondent did not comment on the language of the proceeding.

Considering the Complainant’s request and the fact that the Respondent did not reply to any of the communications sent by the Center, all of which were transmitted in English and Portuguese, the Panel does not consider it prejudicial to the Respondent if English were adopted as the language of the proceeding.

Moreover, the proceeding would be unduly delayed if the Complainant were requested to translate the Complaint into Portuguese.

Accordingly, the Panel accepts the Complainant's request for English to be the language of the proceeding.

Noting the Respondent did not file a Response, the Panel shall proceed to a decision on the basis of the Complaint pursuant to paragraph 14(a) of the Rules. Based on the available record, it looks very clear to the Panel that this case fulfils all the requirements of paragraph 4(a) of the Policy as discussed below.

## **6.2 Substantive Issues**

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

The Complainant has provided evidence of its trademark registrations in relation to the marks SODEXHO and SODEXO.

It has been recognized repeatedly in previous UDRP cases that the whole reproduction of a trademark in a domain name is sufficient to establish confusing similarity: See *Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr.*, WIPO Case No. [D2002-0903](#); and *Eauto, L.L.C. v. Triple S. Auto Parts d/b/a Kung Fu Yea Enterprises, Inc.*, WIPO Case No. [D2000-1525](#).

The disputed domain name is composed of the mark SODEXO in its entirety together with the term "sa" (that may be understood as a company classification), and the TLD "marketing". The Panel finds that the Complainant's mark SODEXO is clearly recognizable within the disputed domain name, and the addition of the term "sa" does not prevent a finding of confusing similarity. The TLD "marketing" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. See sections 1.7, 1.8 and 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Therefore, the Panel finds that paragraph 4(a)(i) of the Policy is satisfied in favour of the Complainant.

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

The Complainant also asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Respondent could potentially have demonstrated having rights or legitimate interests in the disputed domain name, by showing any one of the three requirements of paragraph 4(c) of the Policy, which did not happen.

The overall burden of proof for establishing that the Respondent has no rights or legitimate interests in the disputed domain name lies with the Complainant. In this respect, the Panel also accepts that the Respondent is not commonly known by the disputed domain name and has not acquired any rights or legitimate interests in the SODEXO mark. Further, the disputed domain name does not resolve to any active website.

The Panel finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name which the Respondent has not rebutted.

Moreover, the nature of the disputed domain name carries a risk of an implied affiliation as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds that paragraph 4(a)(ii) of the Policy is satisfied in favour of the Complainant.

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

The Panel is satisfied that the disputed domain name have been registered and used in bad faith for the following reasons:

The trademark SODEXO is purely fanciful and it was registered several years before the registration of the disputed domain name, therefore, it is reasonable to accept that nobody could legitimately choose this word or any variation thereof, unless seeking to create an association with the Complainant's activities and marks SODEXO.

The mark SODEXO has a strong reputation and its well-known character has been repeatedly recognized by previous UDRP panels, see, among others, *Sodexo v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico, supra*, and *Sodexo v. Contact Privacy Inc. Customer 1247189803 / NorAm Accounts Receivable, supra*.

Additionally, the non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of "passive holding", particularly considering the fame and distinctiveness of the Complainant's SODEXO mark, and the implausibility of any good-faith use that the disputed domain name may be put. See section 3.3 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds that paragraph 4(a)(iii) of the Policy is satisfied in favour of the Complainant.

### **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 <sodexosa.marketing> be transferred to the Complainant.

*/Gonçalo M. C. Da Cunha Ferreira/*

**Gonçalo M. C. Da Cunha Ferreira**

Sole Panelist

Date: December 30, 2022