

ADMINISTRATIVE PANEL DECISION

Sodexo v. Lilly Walton
Case No. D2022-3798

1. The Parties

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

The Respondent is Lilly Walton, United States of America.

2. The Domain Name and Registrar

The disputed domain name <mysodexous.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 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 (Privacy Service Provided by Withheld for Privacy ehf, Iceland) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 13, 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 14, 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 the Respondent of the Complaint, and the proceedings commenced on October 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 6, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 8, 2022.

The Center appointed Tobias Zuberbühler as the sole panelist in this matter on November 14, 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 was founded in 1966 and is one of the largest companies in the world specialized in foodservices and facilities management, with 412,000 employees serving consumers in 56 countries. The Complainant was prior called SODEXHO ALLIANCE but simplified the spelling of its mark and name to SODEXO in 2008.

The Complainant owns trademark registrations in various jurisdictions, including the International trademark SODEXO (Reg. No. 964615, registered on January 8, 2008), the European Union Trade Mark SODEXO (Reg. No. 008346462, registered on February 1, 2010), and the International trademark SODEXHO (Reg. No. 689106, registered on January 28, 1998).

The Complainant further holds the domain name <sodexo.com> under which the official website of the Complainant is available. The Complainant holds various other domain names incorporating the Complainant's trademarks. The Complainant advertises and sells its services through its <sodexo.com> domain name.

The disputed domain name was registered on October 1, 2022 and resolves to an inactive page.

5. Parties' Contentions

A. Complainant

The Complainant alleges that it has satisfied all elements of the Policy, paragraph 4.

B. Respondent

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

6. Discussion and Findings

Based on the facts and evidence introduced by the Complainant, and with regard to paragraphs 4(a), (b) and (c) of the Policy, the Panel concludes as follows:

A. Identical or Confusingly Similar

The Complainant has submitted sufficient evidence to demonstrate its registered rights in the SODEXO and SODEXHO trademarks.

The Complainant's SODEXO trademark is wholly reproduced in the disputed domain name.

A domain name is "identical or confusingly similar" to a trademark for the purposes of the Policy when the domain name includes the trademark, or a confusingly similar approximation, regardless of other terms in the domain name (*Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)). As stated in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8, "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements". Hence, the Panel holds that

the addition of the terms “my” and “us” to the Complainant’s SODEXO trademark does not prevent a finding of confusing similarity between the disputed domain name and the Complainant’s SODEXO trademark.

The Complainant has thus fulfilled the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

There are no indications before the Panel of any rights or legitimate interests of the Respondent in respect of the disputed domain name. The Complainant contends that the Respondent is neither affiliated with the Complainant nor making any *bona fide* use of the disputed domain name.

Furthermore, the composition of the disputed domain name, wholly incorporating the Complainant’s SODEXO trademark and the terms “my” and “us”, cannot constitute fair use in these circumstances as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds that the Complainant, having made out a *prima facie* case which remains unrebutted by the Respondent, has fulfilled the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

UDRP panelists have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. The totality of the circumstances in each case will be examined, and factors that have been considered relevant in applying the passive holding doctrine include: (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 of 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 [WIPO Overview 3.0](#), section 3.3).

Under the circumstances of this case, including the composition of the disputed domain name and reputation of the Complainant’s SODEXO trademark, the Panel finds that the Respondent was most likely aware of the Complainant’s SODEXO trademark when registering the disputed domain name. The Respondent has not submitted any response, and the Panel sees no plausible good faith use to which the inherently misleading disputed domain name may be put. Hence, the Panel finds it more likely than not that the Respondent was targeting the Complainant and the goodwill it has obtained for its SODEXO trademark. The Panel also notes that screening of trademark registrations is readily available through online databases (or by a mere Internet search) to avoid the registration of a trademark-abusive domain name.

In the totality of circumstances of this case, the Panel finds that the Respondent has therefore registered and used the disputed domain name in bad faith.

Accordingly, the Complainant has also fulfilled 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 <mysodexous.com> be transferred to the Complainant.

/Tobias Zuberbühler/

Tobias Zuberbühler

Sole Panelist

Date: November 23, 2022