

## **ADMINISTRATIVE PANEL DECISION**

Sodexo v. Barone Yvette

Case No. D2022-3847

### **1. The Parties**

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

The Respondent is Barone Yvette, United States of America.

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

The disputed domain name <soodexo.com> is registered with Google LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 13, 2022. On October 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 14, 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, Canada) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 17, 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 18, 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 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 10, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 11, 2022.

The Center appointed Mladen Vukmir as the sole panelist in this matter on November 18, 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 Panel has determined the following non-contested facts:

(i) The Complainant is a French company founded in 1966 (then called Sodexho Alliance, since 2008 called Sodexo), which has been operating for decades in the field of food services and facilities management;

(ii) The Complainant is the owner of many SODEXO and SODEXHO registered trademarks, including but not limited to:

Trademark	Trademark Office	Reg. No. / Status	Date of the registration	Class(es)
SODEXO (figurative)	International	964615 / registered	January 8, 2008	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45
SODEXO (word)	International	1240316 / registered	October 23, 2014	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45
SODEXO (word)	European Union	008346462 / registered	February 1, 2010	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45
SODEXO (figurative)	European Union	006104657 / registered	June 27, 2008	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45
SODEXHO (figurative)	International	689106 / registered	January 28, 1998	16, 36, 37, 39, 41, 42
SODEXHO (figurative)	International	694302 / registered	June 22, 1998	9

(iii) The Complainant holds numerous domain names corresponding to or containing its registered trademarks, including <sodexo.com>, <sodexousa.com>, and many others;

(iv) The Complainant's SODEXO and SODEXHO trademarks were recognized in previous UDRP cases and accepted by previous UDRP Panels as well-known trademarks, such as: *Sodexo v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2021-0472](#) and *Sodexo v. Domains By Proxy, LLC, DomainsByProxy.com / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-3085](#);

(v) The Respondent is the holder of the disputed domain name, as disclosed by the Registrar;

(vi) The disputed domain name was registered on October 6, 2022;

(vii) The disputed domain name does not resolve to an active website.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant states that it has around 412,000 employees, serving 100 million consumers daily in 56 countries worldwide. The Complainant further states that it is listed as one of "The World's Most Admired

Companies” by Fortune Magazine, and that its SODEXO and SODEXHO trademarks are continuously and extensively used and registered worldwide.

The Complainant asserts that the disputed domain name is confusingly similar to the Complainant’s SODEXO trademarks. According to the Complainant, the disputed domain name is “composed of the Complainant’s trademark with the addition of another vowel O”, and as such, it “undoubtedly evokes the Complainant’s trademark”. Given this, the Complainant is under the opinion that the public might believe that the disputed domain name comes from the Complainant’s SODEXO Group or is somehow connected to it. The Complainant claims that it has recently faced several attacks and it therefore fears a possible fraudulent use of the disputed domain name, *e.g.* by using it to send phishing emails to its clients or to impersonate its employees.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name. It has been recently registered in the name of Barone Yvette, an individual completely unknown to the Complainant with whom the Complainant has no affiliation or connection. Given the longstanding reputation of the Complainant, the Complainant claims that the Respondent has no rights to the term “sodexo” as a trademark, corporate name, domain name, or for any other lawful use that would be prior to the Complainants’ rights or registered trademarks.

The Complainant further asserts that the disputed domain name was registered and is used in bad faith. According to the Complainant, the disputed domain name represents typosquatting practice since it is an obvious misspelling of the SODEXO trademark, achieved by simply doubling the letter “o”. The company Sodexo and its trademarks have a strong reputation and are widely known around the world, including in the United States where the Respondent is located. The Complainant states that term “sodexo” is “purely fanciful” therefore nobody could legitimately choose this word or its variation unless they seek to associate it with the Complainant’s business activities and trademark. In support of its claims, the Complainant has indicated several previous UDRP decisions that recognized that the actual knowledge of the Complainant’s trademarks and activities at the time of the registration of the disputed domain may point to an existence of bad faith. Given its longstanding and worldwide reputation, the Complainant claims that the Respondent must have known about its activities and trademarks and that the Respondent registered the disputed domain name solely for the purpose of confusing, diverting or misleading third parties.

## **B. Respondent**

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

## **6. Discussion and Findings**

The Panel now proceeds to consider this matter on the merits in light of the Complaint, the lack of the Response, the Policy, the Rules, the Supplemental Rules and other applicable legal authority pursuant to paragraph 15(a) of the Rules.

Paragraph 4(a) of the Policy sets out that the Complainant must prove, with respect to the disputed domain name, each of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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.

## A. Identical or Confusingly Similar

The Panel holds that the disputed domain name is confusingly similar to the Complainant's SODEXO trademarks.

The Complainant has submitted sufficient evidence that it is the owner of numerous SODEXO trademarks, which are duly registered before the competent trademark authorities.

It is well established that the threshold test for confusing similarity under the UDRP involves a reasoned but relatively straightforward comparison between the textual components of the relevant trademark and the disputed domain name. In order to satisfy this test, the relevant trademark would generally need to be recognizable as such within the disputed domain name. In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing (see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

After performing a visual comparison of the disputed domain name with the Complainant's SODEXO trademark, it is evident to this Panel that the disputed domain name incorporates SODEXO trademark in its entirety. The only difference between the disputed domain name and the Complainant's SODEXO trademarks is the additional "o" in the disputed domain name. Adding the letter "o" in the disputed domain name does not prevent a finding of confusing similarity with the Complainant's SODEXO trademarks. The Complainant's SODEXO trademarks are recognizable in the disputed domain name.

In this Panel's view, the disputed domain name is obviously misspelled and this practice is commonly referred to as typosquatting. In accordance with section 1.9 of the [WIPO Overview 3.0](#), a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered to be confusingly similar to the relevant trademark for purposes of the first element of the paragraph 4(a) of the Policy. This Panel's conclusion is in line with views taken by previous Panels in earlier UDRP cases (e.g. *Comerica Bank v. Online Management / Registration Private, Domains By Proxy, LLC*, WIPO Case No. [D2014-1018](#)).

Regarding the generic Top-Level Domain ("gTLD"), ".com", in the disputed domain name, as a standard registration requirement it may generally be disregarded under the confusing similarity test (section 1.11 of [WIPO Overview 3.0](#)).

The Panel finds that the Complainant has satisfied the requirement set forth in paragraph 4(a)(i) of the Policy, *i.e.* has proven that the disputed domain name is confusingly similar to its registered trademark.

## B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out a number of circumstances which, without limitation, could have been effective for the Respondent to demonstrate that it has rights to, or legitimate interests in a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy.

As noted by the previous UDRP panels on the onus of proof under paragraph 4(a)(ii) of the Policy, and as summarized in section 2.1 of the [WIPO Overview 3.0](#): "[...] While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of 'proving a negative', requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

In the present case, the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, with the Respondent failing to provide any substantive response to the Complaint which would prove his rights or legitimate interests in the disputed domain name.

The Panel took into consideration the evidence provided by the Complainant of its trademark registrations all over the world, as well as its undisputed claims that the Respondent has no prior rights or interests and has not been licensed or otherwise permitted by the Complainant to use any of its SODEXO trademarks, or to register the disputed domain name incorporating a typosquatting version of its trademarks.

In absence of a response from the Respondent and given the well-known character of the Complainant's SODEXO trademarks, the Panel accepts the Complainant's statement that it is very likely that the Respondent knew it had no legitimate interests in the disputed domain name at the time of registering the disputed domain.

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

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

Pursuant to paragraph 4(b) of the Policy, the Panel finds that the disputed domain name was registered and is being used in bad faith.

The Complainant has filed sufficient evidence to prove that its SODEXO trademarks are well-known and distinctive, and that the Complainant has a worldwide reputation. The Respondent, on the other hand did not provide evidence of any rights and/or legitimate interests in a disputed domain name, nor did it present credible evidence for good faith registration and use of the disputed domain name.

Previous UDRP panels have found that mere registration of a domain name that is confusingly similar (particularly domain names comprising typos) to a well-known trademark can by itself create a presumption of bad faith (see section 3.1.4 of the [WIPO Overview 3.0](#)).

Based on evidence filed with the Complaint proving the existence and use of the Complainant's SODEXO trademarks and domain names worldwide, as well as the Complainant's market presence, the Panel finds it highly unlikely that the Respondent was unaware of the Complainant and its SODEXO trademarks when registering the disputed domain name.

Noting the well-known character of the Complainant's SODEXO trademarks and its claim that "sodexo" is an invented fanciful term, the Panel agrees with the Complainant that the Respondent has deliberately misspelled the same in the disputed domain name, with the goal of benefiting from the Complainant's reputation.

Even though the disputed domain name was inactive at the time of filing the Complaint, the Panel holds that this type of misspelling signals an intention on the part of the Respondent to confuse Internet users seeking the content provided by the Complainant.

Furthermore, the Panel finds it implausible that the disputed domain name that represents a simple misspelling of the Complainant's SODEXO trademark and the Complainant's domain name <sodexo.com> could be put to any good faith use by the Respondent.

In these circumstances, the Panel finds the fact that the disputed domain name does not resolve to an active website does not prevent a finding of bad faith (see section 3.3 of the [WIPO Overview 3.0](#)).

Given the above, the Panel hereby concludes that the disputed domain name has been registered and is being used in bad faith, and confirms that the Complainant has fulfilled the third element under 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 <soodexo.com> be transferred to the Complainant.

/Mladen Vukmir/

**Mladen Vukmir**

Sole Panelist

Date: December 1, 2022