

ADMINISTRATIVE PANEL DECISION

Sodexo v. Gilberto Deleon

Case No. D2023-0850

1. The Parties

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

The Respondent is Gilberto Deleon, United States of America.

2. The Domain Name and Registrar

The disputed domain name <sodexoo.com> is registered with Gransy, s.r.o. d/b/a subreg.cz (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 24, 2023. On February 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 27 and March 8, 2023, 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 (My Domain Provider) and contact information in the Complaint. The Center sent email communications to the Complainant on March 2 and 9, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed amended Complaints on March 7 and 13, 2023.

The Center verified that the Complaint together with the amended Complaints 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 March 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 3, 2023. On March 17, 2023, the Center received an email communication from the originally named Respondent in the Complaint (My Domain Provider) providing details for the registered holder of the disputed domain name that matched those previously disclosed by the Registrar (Gilberto Deleon). The Respondent did not submit any formal response. Accordingly, the Center notified the Commencement of Panel Appointment Process on April 5, 2023.

The Center appointed Adam Taylor as the sole panelist in this matter on April 14, 2023. 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, which was founded in 1966, is one of the largest companies in the world specialising in food services and facilities management. It has some 422,000 employees and serves some 100 million consumers daily in over 50 countries. In 2022, its consolidated revenues were in the region of EUR 21.1 billion.

Since 2008, the Complainant has traded under the mark SODEXO; previously, it used the mark SODEXHO.

The Complainant owns many trade marks for SODEXO including International Registration No. 1240316, registered on October 23, 2014, in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.

The Complainant operates a website at "www.sodexo.com".

The disputed domain name was registered on February 22, 2023. On the same day, the disputed domain name was used in conjunction with a username reflecting the correct name of a Complainant employee as the email address from which a fraudulent email was sent to a third-party purporting to provide new Complainant bank details to receive payments.

5. Parties' Contentions

A. Complainant

The following is a summary of the Complainant's contentions.

The Complainant's trade mark is well known.

The disputed domain name is confusingly similar to the Complainant's trade mark, differing only by the addition of an extra "o" at the end. This constitutes typo-squatting.

The Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent has no rights to use the Complainant's mark.

The Respondent is not commonly known by the disputed domain name.

The Complainant has not authorised the Respondent to register or use the disputed domain name.

The disputed domain name was registered and is being used in bad faith.

The Respondent registered the disputed domain name with knowledge of the Complainant's distinctive mark and used it to impersonate the Complainant and perpetrate an email scam.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established registered rights in the mark SODEXO, as well as unregistered trade mark rights deriving from the Complainant's extensive and longstanding use of that mark.

Section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") makes clear that a domain name which consists of a common, obvious, or intentional misspelling of a trade mark is considered by UDRP panels to be confusingly similar to the relevant mark for purposes of the first element.

In this case, the Panel considers that the addition of an extra letter "o" at the end of the Complainant's distinctive trade mark is an intentional misspelling of the Complainant's mark.

Accordingly, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's trade mark and that the Complainant has therefore established the first element of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

As explained in section 2.1 of [WIPO Overview 3.0](#), the consensus view is that, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If not, the complainant is deemed to have satisfied the second element.

Here, the Complainant has not licensed or otherwise authorised the Respondent to use its trade mark.

Paragraph 4(c) of the Policy gives examples of circumstances which, if proved, suffice to demonstrate that a respondent possesses rights or legitimate interests.

As to paragraph 4(c)(i) of the Policy, as explained below the Panel considers that the Respondent has used the disputed domain name to impersonate the Complainant for fraudulent purposes. Such use of the disputed domain name could not be said to be *bona fide*.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy are relevant in the circumstances of this case.

The Panel finds that the Complainant has established a *prima facie* case of lack of rights or legitimate interests and there is no rebuttal by the Respondent.

For the above reasons, the Panel concludes that the Complainant has established the second element of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Complainant has produced evidence that the disputed domain name has been used for an email address from which scam emails were sent impersonating the Complainant. Given the evidence of use of the disputed domain name for a fraudulent purpose, the Panel readily concludes that it was registered and is being used in bad faith by the Respondent.

For the above reasons, the Panel considers that the Complainant has established the third element of paragraph 4(a) 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, <sodexoo.com>, be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: April 28, 2023