

ADMINISTRATIVE PANEL DECISION

SODEXO v. Kaleeswaran

Case No. D2024-1107

1. The Parties

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

The Respondent is Kaleeswaran, India.

2. The Domain Name and Registrar

The disputed domain name <sodexofood.site> is registered with AppCroNix Infotech Private Limited, d/b/a VEBONIX (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 13, 2024. On March 14 and 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 21, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 March 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 19, 2024.

The Center appointed Dietrich Beier as the sole panelist in this matter on May 7, 2024. 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

Founded in 1966, the Complainant is a French company and one of the largest companies in the world specialized in food services and facilities management, with 430,000 employees serving daily 80 million consumers in 45 countries. SODEXO is one of the largest employers worldwide.

For the fiscal year 2023, consolidated revenues reached EUR 22,6 billion.

The Complainant is listed as one of “The world’s Most Admired Companies” by FORTUNE Magazine.

From 1966 to 2008, SODEXO promoted its business under the SODEXHO mark and trade name. In 2008, SODEXHO simplified the spelling of its mark and name to SODEXO.

The Complainant is the proprietor of numerous trademarks, among them the word/device trademark n° 1635770 “sodexo” in India, registered on December 28, 2007 under priority of the French trademark registration n° 073513766 of July 16, 2007, registered on December 28, 2007 and renewed in 2017, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, and 42, and the European Union Wordmark registration n° 008346462 SODEXO filed on June 8, 2009 and registered on February 1, 2010, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45, and being in effect.

The disputed domain name was registered on March 7, 2024. The disputed domain name resolves to an inactive page.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

- (i) the disputed domain name reproduces the Mark, in which the Complainant has rights, and is confusingly similar to the Mark insofar as the disputed domain name contains the Mark in its entirety. The addition of the descriptive term “food” does not serve to distinguish the disputed domain name from the Mark.
- (ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name, by which he is not commonly known. Furthermore, the Complainant contends that it never licensed the Respondent to use the Mark in any manner or consented to such use, and that the Respondent never had any business connection or affiliation with the Complainant.
- (iii) Given the well-known character and reputation of the Complainant’s mark the Respondent knew its existence when he registered the disputed domain name and knew that he had no rights or legitimate interests in the disputed domain name.

The Complainant requests that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name differs in its second level domain only by the additional element "food". Although the addition of other terms may bear on assessment of the second and third elements, the Panel finds the addition of such term does not influence on the recognizability of the other element "Sodexo" and accordingly the disputed domain name is confusingly similar to the Complainant's mark. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Respondent has in particular no rights or legitimate interests in the disputed domain name, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks or designations confusingly similar to its trademarks. Furthermore, the Respondent has no rights or legitimate interests in the disputed domain name, since there is no indication that the Respondent is commonly known by the name "Sodexofood" or that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Mark, as recognized by many UDRP panels which have declared the Mark to be famous or well-known (see for instance *Sodexo v. Contact Privacy Inc. Customer 1246780534 / Chivers Michael*, WIPO Case No. [D2020-0865](#)).

Due to the Complainant's mark being well-known and its intensive use, the Respondent must have been well aware of the Complainant and its trademarks when registering the disputed domain name. The Complainant had not authorised the Respondent to make use of its mark. This Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular domain name without the Complainant's authorisation, even if the website under the disputed domain name is not active.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include inter alia: (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. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds that the Complainant has established the third element 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 <sodexofood.site> be transferred to the Complainant.

/Dietrich Beier/

Dietrich Beier

Sole Panelist

Date: May 21, 2024