

ADMINISTRATIVE PANEL DECISION

Sodexo v. johnnleed
Case No. D2024-1420

1. The Parties

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

The Respondent is johnnleed, China.

2. The Domain Name and Registrar

The disputed Domain Name <sodexokronos.net> is registered with Above.com, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 3, 2024. On April 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed Domain Name. On April 5, 2024, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 8, 2024, 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 April 9, 2024.

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 April 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 10, 2024.

The Center appointed Ana María Pacón as the sole panelist in this matter on May 22, 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

The Complainant, formerly Sodexo Alliance, is a French multinational food services and facilities management company established in 1966. From 1966 to 2008, the Complainant promoted its business under the SODEXHO trademark and tradename. In 2008, the Complainant simplified the spelling of its mark and name to SODEXO and changed its logo.

Currently, the Complainant has 430,000 employees serving daily 80 million consumers in 45 countries. In 2024, the Complainant was listed as one of "The World's Most Admired Companies" by Fortune Magazine.

Relevant to these proceedings, the Complainant has registered the trademark SODEXO worldwide, including:

- International Trademark registration No. 964615 for SODEXO and logo, 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, protected in China amongst other countries.

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

- European Union Trademark registration No. 008346462 for SODEXO, filed on June 8, 2009, registered on February 2, 2010, and renewed in 2019 in International classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.

- European Union Trademark registration No. 006104657 for SODEXO and logo, filed on July 16, 2007, registered on June 27, 2008, renewed in 2017, in International classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45.

The Complainant owns numerous domain names containing SODEXO, one of which is <cn.sodexo.com>, targeting Internet users in China, where the Respondent is located. The Complainant also owns the domain name <sodexo.com> reflecting its SODEXO trademark, registered on October 9, 1998, valid until October 8, 2024.

The disputed Domain Name was registered on March 29, 2024. Currently, the disputed Domain Name is being used as a parking page that has Pay-Per-Click ("PPC") links to websites of companies offering services for workforce management, human resources software, and employee benefits management systems. In the past, the disputed Domain Name had PPC links that redirected Internet users to websites of the Complainant's competitors providing meal vouchers and services for personal and home services (CESU).

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 argues that the disputed Domain Name contains the Complainant's SODEXO trademark in its entirety, thereby satisfying Paragraph 4(a)(i). According to several UDRP panels, the complete reproduction of a trademark in a domain name is sufficient to establish confusing similarity. In addition, its trademark is widely well known and registered worldwide.

Furthermore, the Complainant contends that the Respondent lacks any rights or legitimate interests in the disputed Domain Name. The Respondent was not commonly known by the disputed Domain Name prior to its adoption and use by the Complainant. Moreover, 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 any subsidiary or affiliated company to register the disputed Domain Name and use it.

Under Paragraph 4(a)(iii), the Complainant contends that the Respondent has registered and is using the disputed Domain Name in bad faith. Given the well-known character and reputation of the SODEXO / SODEXHO mark, the Respondent must have known of its existence when registered the disputed Domain Name. In addition, the Respondent registered the disputed Domain Name with the intention of creating a parking page with sponsored PPC links to take advantage of internet users seeking SODEXO services. According to the Complainant, past UDRP panels have found bad faith in similar circumstances.

The Complainant requests the transfer of the disputed Domain Name.

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 Panel finds the mark is recognizable within the disputed Domain Name. Accordingly, the disputed Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms such as "kronos" may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Then there is the addition of the generic Top-Level Domain ("gTLD"), here ".net". As is generally accepted, the addition of a gTLD such as ".net" is merely a technical registration requirement and as such is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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 present 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.

Applying UDRP paragraph 4(c), UDRP panels have held that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. See, among others, *Merck Sharp & Dohme Corp. v. Domain Administrator, PrivacyGuardian.org / George Ring, DN Capital Inc.*, WIPO Case No. [D2017-0302](#). The Complainant has demonstrated that in the past the disputed Domain Name linked to a website containing PPC links, related to the Complainant's competitors providing meal vouchers and services for personal and home services (CESU). The Respondent is not authorized to use the Complainant's SODEXO mark in any way, and using a domain name incorporating the Complainant's mark to host sponsored links associated with the Complainant's area of business cannot be a bona fide offering of goods or services.

Moreover, the nature of the disputed Domain Name carries a risk of implied affiliation as it wholly incorporates the Complainant's trademark and can be considered a typographical variation of the Complainant's domain name <sodexo.kronos.net>.

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

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Complainant has substantiated the fact that its trademark SODEXO, which has been registered and used, now benefits from public awareness worldwide.

A number of UDRP panels have arrived at a finding that registering a domain name with knowledge of another company's rights in a domain name, and with intention to divert traffic, may serve as evidence of bad faith registration (see *Digital Spy Limited v. Moniker Privacy Services and Express Corporation*, WIPO Case No. [D2007-0160](#); *PepsiCo, Inc. v. "null", aka Alexander Zhavoronkov*, WIPO Case No. [D2002-0562](#); and *The Gap, Inc. v. Deng Youqian*, WIPO Case No. [D2009-0113](#)). This Panel finds it implausible that the registration of the disputed Domain Name took place in good faith, particularly in light of the fact that the Complainant owns and uses the nearly identical domain name <sodexo.kronos.net> from which the disputed Domain Name differs only from the omission of the first period.

Thus, the Panel finds, on the evidence available to it, that the Respondent had knowledge of the SODEXO trademark when it registered the disputed Domain Name.

Furthermore, using the disputed Domain Name to host a PPC parking page the Respondent creates a likelihood of confusion with the Complainant's trademark and potentially obtains revenue from this practice. Previous UDRP decisions have considered this type of use of a domain name sufficient to demonstrate bad faith. For reference on the subject, see *Serta Inc. v. Charles Dawson*, WIPO Case No. [D2008-1474](#); see also *Asian World of Martial Arts Inc. v. Texas International Property Associates*, WIPO Case No. [D2007-1415](#).

UDRP panels have held that the use of a domain name to display PPC links, some of which in the past related to offer food services and facilities management services (thus directing users to third-party websites in a similar industry as the Complainant) further demonstrates the Respondent's intent to make a commercial gain from exploiting the Complainant's SODEXO trademark. UDRP panels have found such use as bad faith (see, for example, *Mpire Corporation v. Michael Frey*, WIPO Case No. [D2009-0258](#): "While the intention to earn click-through-revenue is not in itself illegitimate, the use of a domain name that is deceptively similar to a trademark to obtain click-through-revenue is found to be bad faith use").

Finally, the absence of a reply from the Respondent is further suggestive of bad faith from the Respondent in the present case.

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 <sodexokronos.net> be transferred to the Complainant.

/Ana María Pacón/

Ana María Pacón

Sole Panelist

Date: June 5, 2024