

ADMINISTRATIVE PANEL DECISION

SODEXO v. Lilly Walton

Case No. D2022-3926

1. The Parties

1.1 The Complainant is SODEXO, France, represented by Areopage, France (the “Complainant”).

1.2 The Respondent is Lilly Walton, United States of America (the “Respondent”).

2. The Domain Name and Registrar

2.1 The disputed domain name <usodexo.com> (the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

3.1 The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 19, 2022. On October 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On the same day, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 3, 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 November 7, 2022.

3.2 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”).

3.3 In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on November 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 28, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 9, 2022.

3.4 The Center appointed Ike Ehiribe as the sole panelist in this matter on December 27, 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

4.1 The Complainant herein is SODEXO, a French limited liability company founded in 1966. The Complainant specialises in food services and facilities management with 412,000 employees serving 100 million consumers in 56 countries. In the year 2021, the Complainant is recorded as having earned consolidated revenues in the sum of 17.4 billion euros. The Complainant is listed as one of the world's "Most Admired Companies" by Fortune magazine. From 1966 to 2008, the Complainant is said to have promoted its business under the SODEXHO trademark and trade name, but in 2008 decided to change the spelling of its mark and name to SODEXO. The Complainant provides a wide range of services under this trade name such as On-site services, Benefit and Reward services, as well as Personal and Home services. The Complainant owns numerous registrations of the SODEXO and SODEXHO trademarks both international and European Union as listed in Annexes 5 to 12 to the Complaint (see, e.g., International trademark reg. no. 964615 for SODEXO, registered on January 8, 2008; European Union trademark reg. no. 006104657 for SODEXO, filed in 2007 and registered on June 27, 2008). These trademark registrations date back to the year of 2007 and are in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45. Some of these trademark registrations are in the following countries namely: Armenia, Australia, Azerbaijan, Bosnia and Herzegovina, Bahrain, Belarus, Switzerland, China, Algeria, Egypt, Iran (Islamic Republic of), Iceland, Israel, Japan, Kyrgyzstan, Republic of Korea (the), Kazakhstan, Lesotho, Morocco, Monaco, Republic of Moldova (the), Montenegro, Mongolia, Namibia, Norway, Serbia, Russian Federation (the), Singapore, Türkiye, Ukraine, United States of America ("United States"), Uzbekistan, and Viet Nam. The Complainant also owns numerous domain names corresponding to or containing the SODEXO/SODEXHO trademark such as <sodexo.com>, <uk.sodexo.com>, <sodexoprestige.co.uk>, <sodexo.fr>, <sodexoca.com>, <sodexousa.com>, <cn.sodexo.com>, <sodexho.fr>, and <sodexho.com>.

4.2 The Respondent is reportedly based in the United States. The Disputed Domain Name was registered on October 18, 2022. The Disputed Domain Name resolves to a parking website with third party links unrelated to the Complainant.

5. Parties' Contentions

A. Complainant

5.1 The Complainant contends that the Disputed Domain Name is confusingly similar to the Complainant's SODEXO trademark. The Complainant states that the addition of the letter "u" to the Disputed Domain Name is clearly to deceive consumers to believe that the Disputed Domain Name relates to the geographical abbreviation of the United States, if read with the letter "s" or to read as 'you' if read alone. The Complainant describes this practice as obvious typo squatting. In this regard, the Complainant relies on the decision in *Ganett Co., Inc. v. Henry Chan*, WIPO Case No. [D2004-0117](#), to submit that it is well established that a domain name consisting of a well-known mark combined with the applicable geographically descriptive term or phrase, is confusingly similar to the mark. The Complainant further argues that given the identical reproduction of the SODEXO mark in the Disputed Domain Name, the public will believe that the Disputed Domain Name belongs to the SODEXO group, particularly, as the Complainant's official United States SODEXO website reads as follows: "https://us.sodexo.com/home.html". The Complainant also asserts that the Disputed Domain Name and the Complainant's domain name at <US.SODEXO.COM> are almost identical and refers to previous UDRP decisions where domain names have been found to be confusingly similar to the Complainant's mark and domain name such as: 1) <ussodexo.com> in the case of *Sodexo v. Domains By Proxy, LLC, DomainsByProxy.com/ Carolina Rodrigues, Fundacion Comerico Electronico*, WIPO Case No. [D2021-1393](#); 2) <us-sodexo.com> in the case of *Sodexo v. Domains By Proxy.com/John Travol*, WIPO Case No. [D2021-2580](#) and 3) <usa-sodexo.com> in the case of *Sodexo v bmk logger*, WIPO Case No. [D2021-2771](#).

5.2 The Complainant also submits that the Respondent does not have any rights or legitimate interests in the Disputed Domain Name as the Respondent is not commonly known by the Disputed Domain Name nor does the Respondent have rights as a corporate entity in the SODEXO mark. The Complainant further asserts that the Respondent does not have any affiliation, association, sponsorship or connection with the Complainant and has not been authorised, licensed or otherwise permitted by the Complainant or by any subsidiary or affiliated company to register the Disputed Domain Name.

5.3 On the issue of bad faith registration and use, the Complainant contends that given the well-known character and reputation of the SODEXO/ SODEXHO mark, the Respondent most likely knew of its existence when he registered the Disputed Domain Name. In this regard, the Complainant relies on several previous UDRP decisions including *SODEXO v. Shahzan / PrivacyProtect.org*, WIPO Case No. [D2013-1308](#), wherein it is stated that there is a “principle established in previous UDRP decisions that the registration of a domain name incorporating a widely-recognised or well-known trademark by someone who is not connected in whatsoever manner with the trademark is a clear indication of bad faith”. The Complainant further submits that it is obvious that the Respondent registered the Disputed Domain Name with actual knowledge of the Complainant’s rights in the SODEXO mark, very likely, for the purpose of creating confusion to divert or mislead third parties for the Respondent’s illegitimate profit. The Complainant in addition asserts that the Respondent is using the Disputed Domain Name to exploit the confusion in the minds of Internet users to attract them to click on third party commercial links for financial gain. The Respondent’s conduct as described, the Complainant submits, is further evidence of bad faith registration and use following the decision in *Champagne Lanson v. Development Services/MailPlanet.com, Inc.*, WIPO Case No. [D2006-0006](#), where it was held that: “pay-per-click landing pages are not legitimate where sponsored links are based on the trademark value of the domain name.”

B. Respondent

5.4 The Respondent did not reply to the Complainant’s contentions, therefore in the circumstances, the Panel shall draw such adverse inferences from the failure or refusal of the Respondent to reply as it considers appropriate.

6. Discussion and Findings

6.1 Under paragraph 4(a) of the Policy, to succeed in the administrative proceeding the Complainant must prove that:

- a) the Disputed Domain Name is identical and confusingly similar to the trademark or service mark of the Complainant;
- b) the Respondent has no rights or legitimate interests in the respect of the Disputed Domain Name; and
- c) the Disputed Domain Name has been registered and is being used in bad faith.

6.2 As expressly stated in the Policy, the Complainant must establish the existence of each of these three elements in any administrative proceeding.

A. Identical or Confusingly Similar

6.3 This Panel finds that the Complainant is a well-known French company founded since 1966 and is one of the largest companies in the world engaging in food services and facilities management. The Panel accepts that the Complainant has obtained several international trademark registrations for its SODEXO trademark. The Panel also accepts that the Complainant conducts its worldwide business activities through various domain names most of which include the SODEXO trademark. Accordingly, the Panel finds that on a visual examination of the Disputed Domain there is no doubt that it is indeed confusingly similar to the Complainant’s SODEXO trademark. Clearly, the Disputed Domain Name incorporates the Complainant’s

mark in its entirety. See also the recent decision in *Sodexo v bmk logger, supra.*, finding the domain name <usa-sodexo.com> confusingly similar to the Complainant's SODEXO trademark. The Panel finds that the mere additions of the letter "u" and the generic Top-Level Domain ".com" do absolutely nothing to prevent a finding of confusing similarity. See in this regard the detailed discussion on the test for confusing similarity as appears in sections 1.7, 1.8, and 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, 3rd Edition ("[WIPO Overview 3.0](#)").

6.4 Therefore, the Panel is satisfied that the Complainant has established that the Disputed Domain Name is confusingly similar to the Complainant's trademark, being the first element of the Policy.

B. Rights or Legitimate Interests

6.5 The Panel is equally satisfied that the Respondent has failed to establish that it has rights or legitimate interests in the Disputed Domain Name within the ambit of paragraph 4(c) of the Policy. As argued by the Complainant, the Respondent is not commonly known by the Disputed Domain Name and there is no evidence of any relationship, and or affiliation between the Complainant and the Respondent that has given rise to any license, permission or other right by which the Respondent could own or use any domain name incorporating the Complainant's SODEXO trademark. Furthermore, the Panel finds that there is no evidence that the Respondent is using the Disputed Domain Name in connection with a *bona fide* offering of goods or services nor has the Respondent used the Disputed Domain Name for any legitimate noncommercial or fair use purpose. On the contrary, the evidence adduced by the Complainant indicates that the Disputed Domain Name resolves to a parking page with pay-per-click links. Given the nearly identical Disputed Domain Name as compared to not only the Complainant's SODEXO trademark, but also the Complainant's domain name <us.sodexo.com>, it is clear that the Respondent's intent was to mislead unsuspecting Internet users expecting to find the Complainant at the confusingly similar disputed domain name, but rather are brought to a website with sponsored commercial links that ultimately redirect said users to third party sites, presumably at the commercial advantage of the Respondent. Considering the impersonating nature of the Disputed Domain Name and the commercial nature of the sponsored links, the Respondent cannot be said to have rights or legitimate interests in the Disputed Domain Name.

6.6 In the circumstances the Panel finds that the Complainant has established that the Respondent does not possess any rights or legitimate interests in the Disputed Domain Name as specified in paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

6.7 On the question of bad faith registration and use, the Panel has taken into account a number of undisputed factors to conclude that the Respondent registered the Disputed Domain Name in bad faith with the clear intention of exploiting the Complainant's well-established world-wide reputation and goodwill in the SODEXO trademark.

6.8 In the first instance, the Panel finds it inconceivable that the Respondent was unaware of the Complainant's well-known SODEXO trademark and reputation before deciding to register the Disputed Domain Name on October 18, 2022. Prior UDRP panels have held that there "mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith". [WIPO Overview 3.0](#), section 3.3. The Panel's finding is reinforced given the Complainant's use of the domain name <us.sodexo.com>, which is almost identical to the Disputed Domain Name, and that Complainant's trademarks are registered in the United States where the Respondent is reportedly based. Secondly, the Panel is satisfied that the Respondent is utilising the Disputed Domain Name to attract Internet users to pay-per-click websites solely for the purpose of achieving commercial gain. See *Champagne Lanson v. Development Services/MailPlanet.com, Inc., supra.* Thirdly, as earlier indicated at paragraph 5.4 above, the Panel has drawn adverse inferences from the failure or refusal of the Respondent to reply to the Complainant's submissions.

6.9 The Panel is therefore satisfied that the Respondent registered and continued to use the Disputed Domain Name in bad faith.

7. Decision

7.1 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 <usodexo.com> be transferred to the Complainant.

/Ike Ehiribe/

Ike Ehiribe

Sole Panelist

Date: January 10, 2023