

ADMINISTRATIVE PANEL DECISION

Sodexo v. Name Redacted

Case No. D2022-4602

1. The Parties

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

The Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <sodexoi.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 December 1, 2022. On December 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 3, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 7, 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 December 9, 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”).

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name (under the name of an employee of the Complainant). In light of the potential identity theft, the Panel has redacted Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on December 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 11, 2023.

The Center appointed Richard C.K. van Oerle as the sole panelist in this matter on February 7, 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 is a French company founded in 1966 (then called Sodexho Alliance, since 2008 called Sodexo), specialized in food services and facilities management. It provides a wide range of services under its trade name and mark SODEXO (prior SODEXHO) through an offer of on-site services, benefit and reward services, as well as personal and home services.

The Complainant demonstrates its ownership over many trademarks consisting in or including the word "sodexo" or "sodexho" in France and abroad, among which:

- International figurative trademark No. 964615 SODEXO dated January 8, 2008, for goods and services in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45, with designation of *inter alia* the United States of America, where the Respondent is located according to the information provided by the Registrar;
- International word trademark No. 1240316 SODEXO dated October 23, 2014, for goods and services in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45;
- European Union word trademark No. 008346462 SODEXO dated February 1, 2010, for goods and services in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45;
- European Union figurative trademark No. 006104657 SODEXO dated June 27, 2008, for goods and services in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45;
- International figurative trademark No. 689106 SODEXHO dated January 28, 1998, for goods and services in classes 16, 36, 37, 39, 41, and 42;
- International figurative trademark No. 694302 SODEXHO dated June 22, 1998, for goods in class 9.

These registrations have been duly renewed and are still valid, and will hereafter together be referred to in singular as the "Trademark".

The disputed domain name has been registered on November 28, 2022, and does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant states that it has around 422,000 employees, serving 100 million consumers daily in 53 countries worldwide. For fiscal year 2022, consolidated revenues reached EUR 21,1 billion which represent by region: 44% North America, 38 % Europe, and 18 % for the rest of the world. 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.

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

The Trademark has been recognized as well-known in various prior UDRP panel decisions, and notably in the following cases:

- *Sodexo v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1580](#);
- *Sodexo v. Contact Privacy Inc. Customer 1247189803 / NorAm Accounts Receivable*, WIPO Case No. [D2020-1683](#);
- *Sodexo v. Super Privacy Service LTD c/o Dynadot / Zhichao*, WIPO Case No. [D2020-1762](#);
- *Sodexo v. Zhichao Yang (杨智超)*, WIPO Case No. [D2020-2286](#);
- *Sodexo v. Ashutosh Dwivedi, Food & Beverages*, WIPO Case No. [D2020-2686](#);
- *Sodexo v. 李金梁 (Li Jin Liang)*, WIPO Case No. [D2020-3064](#);
- *Sodexo v. Domains By Proxy, LLC, DomainsByProxy.com / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-3085](#);
- *Sodexo v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2021-0472](#);
- *Sodexo v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2021-0485](#);
- *Sodexo v. Daniela Ortiz*, WIPO Case No. [D2021-0628](#);
- *Sodexo v. bin quan wang, wang bin quan*, WIPO Case No. [D2021-0629](#);
- *Sodexo v. Yang Zhichao (杨智超)*, WIPO Case No. [D2021-0902](#);
- *Sodexo v. Lloyd Group*, WIPO Case No. [D2021-1214](#);
- *Sodexo v. Cheval Blanc*, WIPO Case No. [D2022-1588](#);
- *Sodexo v. Contact Privacy Inc. Customer 12412617261, Contact Privacy Inc. Customer 12412617261 / Name Redacted*, WIPO Case No. [D2022-1399](#);
- *Sodexo v. Host Master, Transure Enterprise Ltd*, WIPO Case No. [D2022-1140](#).

The Complainant alleges the disputed domain name is identical or confusingly similar to the Trademark in which the Complainant has rights.

The disputed domain name is composed of the SODEXO trademark associated to the letter “i”. The “i” key on the computer keyboard is placed right next to the “o” key. The addition of the letter “i” only corresponds to an obvious typo squatting practice intended to create confusing similarity between the Trademark and the Respondent’s disputed domain name. The confusion is the more likely, given that the Complainant is the owner of the domain name <sodexo.com> as its official website.

The Complainant alleges that the Respondent does not have any rights or legitimate interests in the disputed domain name.

The disputed domain name is registered in the name of [name redacted] located in the United States of America. The Respondent registered the disputed domain name under this name obviously by impersonating an employee from Sodexo, who works with the Complainant as catering manager, controller.

The Respondent has no rights nor legitimate interests in the disputed domain name as he has no rights on “sodexo” as corporate name, trade name, shop sign, mark or domain name that would be prior to the Complainant’s rights on the Trademark. The Respondent was not commonly known by the disputed domain name prior to the adoption and use by the Complainant of the corporate name, business name and the Trademark. 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 by any subsidiary or affiliated company to register the disputed domain name and to use it.

The Complainant alleges that the disputed domain name was registered and is being used in bad faith.

The Complainant underlines that the Trademark is purely fanciful. Therefore, the Complainant concludes that choosing this word means seeking to create an association with its activities and the Trademark. Relying on the well-known character of its Trademark, the Complainant argues that the Respondent could not have ignored the Complainant’s rights at the time of registration of the disputed domain name. The Complainant also refers to previous UDRP decisions that recognized that actual knowledge of the

complainant's trademark and activities at the time of the registration of the disputed domain name may be considered an inference of bad faith.

The Respondent not only knows the Trademark but wants to benefit of its reputation. It is obvious that the Respondent registered the disputed domain name with actual knowledge of the Complainant's rights in the Trademark very likely for the purpose of creating confusion with the Complainant's Trademark to divert or mislead third parties for the Respondent's illegitimate profit.

The Complainant argues that even if the disputed domain name, which has been recently created, does not presently have any active content, a passive holding of a domain name does not prevent a finding of bad faith.

The Complainant further asserts that previous UDRP panels have, among others, taken into consideration elements which are the strong reputation and well-known character of the complainant's trademark, the lack of evidence provided by the respondent of any good faith use with regard to the disputed domain name and the identity of the disputed domain name with the complainant's name and trademark intended to divert or mislead potential web users from the complainant's website they are actually trying to visit. The Complainant claims these circumstances may apply to the present case.

Finally, the Complainant considers that bad faith use may also result from the threat of an abusive use of the disputed domain name by the Respondent. The Complainant fears a possible fraudulent use of the disputed domain name, notably to perpetrate email scam sent to its clients requesting payment of false invoices on fake Sodexo bank accounts or to order products to the Complainant's clients for considerable amounts by impersonating the Complainant's employees. This is the reason why the Complainant has decided to file the present Complaint before any use of 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

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) that the domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) that the domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the Trademark based on the trademark registrations cited under section 4 above.

It is well accepted that the first element functions primarily as a standing requirement, and that the threshold test for confusing similarity involves a reasoned but relatively straightforward comparison between a complainant's trademark and the disputed domain name to assess whether the trademark is recognizable

within the disputed domain name (section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). Moreover, as found in a number of prior cases decided under the Policy and indicated in section 1.9 of the [WIPO Overview 3.0](#), where a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element, for instance where such typos include adjacent keyboard letters, as is the case in this proceeding.

Furthermore, the Top-Level Domain ("TLD") is commonly disregarded under the first element confusing similarity test (section 1.11.1 of the [WIPO Overview 3.0](#)).

In the case at hand, the Complainant's trademark SODEXO is entirely reproduced and clearly recognizable in the disputed domain name. The mere addition of the letter "i" is a misspelling of the SODEXO trademark and does not prevent a finding of confusing similarity.

Therefore, the Panel finds that the Complainant has proven that the disputed domain name is confusingly similar to a trademark in which the Complainant has established rights according to paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

It is well established that the burden of proof lies on the Complainant. However, satisfying the burden of proving a lack of the respondent's rights or legitimate interests in respect of the disputed domain name according to paragraph 4(a)(ii) of the Policy is potentially onerous, since "proving a negative" can be difficult considering such information is often primarily within the knowledge or control of the respondent.

Accordingly, in line with previous UDRP decisions, it is sufficient that the complainant show a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name in order to shift the burden of production on the respondent. If the respondent fails to demonstrate rights or legitimate interests in the disputed domain name in accordance with paragraph 4(c) of the Policy or on any other basis, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Panel finds that the Complainant has made a *prima facie* case and that the Respondent, by not having submitted a Response, has failed to demonstrate rights or legitimate interests in the disputed domain name in accordance with paragraph 4(c) of the Policy. Moreover, it has been repeatedly stated that when a respondent does not avail itself of its right to respond to a complaint, it can be assumed in appropriate circumstances that the respondent has no rights or legitimate interests in the disputed domain name.

The Respondent in this case did not reply to the Complaint.

There is no indication before the Panel that the Respondent is commonly known by the disputed domain name or a name corresponding to the disputed domain name.

The Complainant has demonstrated that the Respondent registered the disputed domain name by using the name corresponding to the name of an employee of the Complainant. This is an indication that it is more likely than not that, as the Complainant argues, the Respondent is thus attempting to use the disputed domain name to act fraudulently with it. Panels have categorically held that the use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent.

The current use of the disputed domain name to a non-active page cannot give rise to any possible rights or legitimate interests of the Respondent in view of the circumstances of this case.

Therefore, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in the disputed domain name according to paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

When the Respondent registered the disputed domain name, the Complainant had been using the Trademark for many years worldwide. Given the Complainant's widespread and long-standing use of the Trademark, the Panel finds it is highly unlikely the Respondent was unaware of the Trademark when it registered the disputed domain name.

The Respondent's bad faith registration is also supported by the facts that: (1) the Respondent has not shown that it has any rights or legitimate interests in the disputed domain name nor provided any evidence of actual or contemplated good-faith use of the disputed domain name; (2) the Respondent registered a confusingly similar domain name, merely adding the letter "i" to the Complainant's distinctive SODEXO trademark; (3) the Respondent registered the disputed domain name by using the name of an employee of the Complainant; and (4) the Respondent has provided faulty contact details to the Registrar (the email address provided does not exist)

There is no plausible reason for the Respondent's selection of a domain name that is almost identical to the undisputedly well-known Trademark other than as a deliberate attempt to take unfair advantage from confusion with the Trademark. See, *Intel Corporation v. The Pentium Group*, WIPO Case No. [D2009-0273](#) ("the incorporation of a well-known trademark into a domain name by a registrant having no plausible explanation for doing so may be, in and of itself, an indication of bad faith").

The Respondent also either used a proxy service to register the disputed domain name, or purposefully selected a registrar that automatically redacts all registrant contact information. Panels have viewed a respondent's use of a privacy or proxy service which is known to block or intentionally delay disclosure of the identity of the actual underlying registrant as an indication of bad faith (see [WIPO Overview 3.0](#), section 3.6).

Accordingly, the Panel accepts that the disputed domain name has been registered and is being used in bad faith.

Furthermore the passive holding (or non-use) of a disputed domain name does not prevent a finding of bad faith. As section 3.3 of the [WIPO Overview 3.0](#) states, panels must "look at the totality of the circumstances in each case" and "factors that have been considered relevant in applying the passive holding doctrine include: (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, (iii) the Respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the disputed domain name may be put". There is no shortage of reasons to justify a finding of bad faith in this proceeding under the passive holding doctrine, particularly noting the well-known nature of the Complainant's Trademark, the implausibility of any good faith use to which the disputed domain name may be put and the Respondent's provision of false contact details.

For the foregoing reasons, the Panel finds that paragraph 4(a)(iii) of the Policy has been satisfied.

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, <sodexoi.com>, be transferred to the Complainant.

/Richard C.K. van Oerle/

Richard C.K. van Oerle

Sole Panelist

Date: February 14, 2023