

ADMINISTRATIVE PANEL DECISION

Sodexo v. fahad khan
Case No. D2023-5349

1. The Parties

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

The Respondent is fahad khan, India.

2. The Domain Name and Registrar

The disputed domain name <sodexocoupons.site> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 23, 2023. On December 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 26, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 27, 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 an amended Complaint on December 29, 2023.

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 January 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 23, 2024.

The Center appointed Kateryna Oliynyk as the sole panelist in this matter on January 25, 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 was founded in 1966 in France. The Complainant states that it is one of the largest companies in the world specializing in food services and facilities management, with 430 000 employees serving daily 80 million consumers in 45 countries. The Complainant is one of the largest employers worldwide. For fiscal year 2023, consolidated revenues reached EUR 22,6 billion which represent by region: 46% North America, 36 % Europe, and 18 % for the rest of the world.

From 1966 to 2008, the Complainant promoted its business under the SODEXHO mark and trade name. In 2008, SODEXHO simplified the spelling of its mark and name to SODEXO and changed its logo. The Complainant provides a wide range of services under its trade name and the SODEXO trademark through an offer of on-site services. The on-site services comprise foods service and facility management services.

The Complainant holds the extensive portfolio of the SODEXO trademark registrations, including the following:

- Indian Trademark Registration No. 1635770 for SODEXO, registered on December 28, 2007, for goods and services in International Classes 9, 16, 35, 36, 37, 38, 39, 40, 41, and 42;
- International Trademark Registration No. 964615 for SODEXO, registered on January 8, 2008, for goods and services in International Classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45;
- International Trademark Registration No. 1240316 for SODEXO, registered on October 23, 2014 for goods and services in International Classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45;
- European Union Trademark Registration No. 006104657 for SODEXO, registered on June 27, 2008 for goods and services in International Classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45.

Previous UDRP panels have already recognized the well-known character of the SODEXO / SODEXHO trademarks.

The disputed domain name was registered on July 19, 2023. Access is currently blocked to the website to which it resolves by a scam warning: "Deceptive site ahead. Attackers on the site you're trying to visit> might trick you installing software of revealing things like password, phone, or credit card number."

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.

Identical or Confusingly Similar

The Complainant contends that the disputed domain name and the SODEXO trademark are confusingly similar.

According to the Complainant's contentions, the disputed domain name incorporates the Complainant's SODEXO trademark in full, followed by the term "coupons" followed by the generic Top-Level Domain ("gTLD") ".site".

The Complainant claims that the word “coupons” means “vouchers”, “tickets” in French. In the disputed domain name <sodexocoupons.site>, the SODEXO trademark remains dominant and keeps its individuality and attractive character.

No Rights or Legitimate Interests

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name.

According to the Complainant's contentions, the Respondent is not commonly known by the disputed domain name, has not used or prepared to use the disputed domain name in connection with a bona fide offering of goods or services, and has not been authorized, licensed, or otherwise permitted by the Complainant to register and/or use the disputed domain name.

Registered and Used in Bad Faith

The Complainant submits that the Respondent registered and is using the disputed domain name in bad faith. The Respondent must have been aware of the Complainant's SODEXO trademark when it registered the disputed domain name.

The Complainant contends that the use of the disputed domain name in connection with a website containing potentially harmful material capable of being used for fraudulent purposes constitutes use of the disputed domain name in bad faith.

The Complainant claims that such use of the disputed domain name tarnishes the distinctiveness and reputation of the Complainant's SODEXO trademark and demonstrates the Respondent's bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: “[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 disputed domain name 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 disputed domain name; and
- iii. that the disputed domain name has been registered and is being used in bad faith.

Considering that the Respondent did not reply to the Complainant's contentions, in order to determine whether the Complainant has met its burden as stated in paragraph 4(a) of the Policy, the Panel bases its decision on the statements and documents submitted and in accordance with the Policy and the Rules.

Under paragraph 14(b) of the Rules, where a Party does not comply with any provision of the Rules, the Panel “shall draw such inferences therefrom as it considers appropriate”.

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.

Under the first element, the Complainant must establish that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark rights.

There are two parts to this inquiry: (i) the Complainant must demonstrate that it has rights in a trademark and, if so, (ii) the disputed domain name must be shown to be identical or confusingly similar to the trademark.

Ownership of a nationally or regionally registered trademark serves as a prima facie evidence that the Complainant has trademark rights for the purposes of standing to file this Complaint. See section 1.2 of the [WIPO Overview 3.0](#). The Complainant submitted evidence that the SODEXO trademark enjoys protection under national, regional and international trademark registrations. Thus, the Panel finds that the Complainant's rights in the SODEXO trademark have been established pursuant to the first element of the Policy.

The disputed domain name consists of the Complainant's SODEXO trademark in full, and the additional term "coupons", followed by the gTLD ".site".

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. Further, section 1.11.1 of [WIPO Overview 3.0](#) states: "The applicable TLD in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test". The gTLD ".com" will therefore be discounted in the Panel's consideration of confusing similarity.

Although the addition of other terms, here, "coupons", may bear on assessment of the second and third elements, the Panel finds the addition of such term 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.

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.

According to the evidence submitted by the Complainant, the use made of the disputed domain name in connection with potentially fraudulent website clearly does not constitute a bona fide offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain names in these circumstances.

Panels have held that the use of a domain name for illegal activity here, claimed, as applicable to this case: phishing, distributing malware, unauthorized account access/hacking, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel also notes that the composition of the disputed domain name, with the addition of the term “coupons” and the use of the gTLD “.site”, both indicate that the Respondent obtained the disputed domain name to associate with the Complainant and, thus, take advantage of the Complainant’s trademark; as such the Respondent lacks rights or legitimate interests in the domain name. [WIPO Overview 3.0](#), sections 2.14.1 and 2.5.1.

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.

The Panel finds that the Respondent likely chose the disputed domain name with full knowledge of the Complainant’s rights in the SODEXO trademark. The Respondent’s awareness of the Complainant’s SODEXO trademark may be inferred because the famous mark was registered well before the Respondent’s creation of the disputed domain name and since the SODEXO trademark is well-known and famous.

Moreover, the addition of the term “coupons” to the SODEXO trademark in the disputed domain name does not diminish the confusing similarity with the trademark. Furthermore, the descriptive component added to the Complainant’s SODEXO trademark adds to the confusion by leading users to believe that the Complainant operates the website associated with the disputed domain name.

In this case, both registration and use of the disputed domain name in bad faith can be found pursuant to Policy, in view that the Respondent’s intention to register the disputed domain name was, based on the balance of probabilities, to take advantage of the Complainant and its well-known trademark unduly reproduced in the disputed domain name. Previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names 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. See [WIPO Overview 3.0](#), section 3.1.4.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity here, claimed potential phishing, distributing malware, unauthorized account access/hacking) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. As the Panel has already established that the disputed domain name resolves to a website displaying a warning message of “Deceptive site ahead”, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

Additionally, the use of a privacy protection service, although not a per se indication of bad faith, supports a finding of bad faith in the circumstances of this case.

The Respondent has not participated in these proceedings and has failed to rebut the Complainant's contentions and to provide any evidence of actual or contemplated good faith use and indeed none would seem plausible.

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 <sodexocoupons.site> be transferred to the Complainant.

/Kateryna Oliinyk/

Kateryna Oliinyk

Sole Panelist

Date: February 12, 2024