

ADMINISTRATIVE PANEL DECISION

Sodexo v. Domain Privacy, Domain Name Privacy Inc.
Case No. D2024-3489

1. The Parties

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

The Respondent is Domain Privacy, Domain Name Privacy Inc., Cyprus.

2. The Domain Name and Registrar

The disputed domain name <sodexhoapp.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 27, 2024. On August 28, 2024, 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 e-mail 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.) and contact information on the Complaint. The Center sent an e-mail communication to the Complainant on September 12, 2024, indicating 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 September 16, 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 September 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 9, 2024.

The Center appointed Gilberto Martins de Almeida as the sole panelist for the dispute on October 14, 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 established its business in 1966 and has since grown to be a well-known company in the food services and facilities management industries. When first created, the company was called Sodexho Alliance, and was later changed to Sodexo, and the Complainant holds relevant trademarks to this day. In this sense, it is possible to note that “SODEXHO” was internationally trademarked on June 22, 1998 under the registration number 694302 which was renewed in 2018, as per Annex 8 to the Complaint, and Complainant has become owner also of “SODEXO”, under international trademark number 964615, registered on January 8, 2008, as per Annex 9 to the Complaint.

The domain name in dispute, <sodexhoapp.com>, was registered on August 25, 2024 and has been used to promote services on a pay-per-click (“PPC”) which purportedly compete against Complainant’s and/or third parties’ services.

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 the addition of the element “app” – abbreviation commonly used for the word “application” – does not make a difference important enough as to not confound users. For this reason, the Complainant believes that the copying of the entirety of its name with the addition of an insignificant different element evidences signs of bad-faith from the Respondent.

B. Respondent

The Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element - identical or confusingly similar - 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, as per 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, as proven by Annex 8. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced 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 (“app”) 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 based on 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 the 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 Panel finds that the nature of the disputed domain name, incorporating the entirety of the famous mark SODEXHO with the additional term “app” – a common abbreviation for “Application”, cannot be considered fair use as it may suggest an affiliation with the Complainant, which is not the case. [WIPO Overview 3.0](#), section 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, its paragraph 4(b) establishes circumstances -, including, but without limitation, that, if found by the Panel to be still present - which evidence the registration and use in bad faith of the disputed domain name.

In the present case, the Panel notes that the Respondent was in bad faith during and after registering the disputed domain name. According to *Maori Television Service v. Damien Sampat*, WIPO Case No. [D2005-0524](#), a respondent has the responsibility to determine whether the domain name registration infringes or violates someone else's rights. Here, given that Complainant’s previously registered mark is well-known, as recognized by several panels (i.e., *Sodexho Alliance v. LaPorte Holdings, Inc.*, WIPO Case No. [D2005-0287](#)), and, that the Respondent used the PPC website to promote services seemingly offered by Complainant’s competitor’s, it is improbable that the Respondent did not know the Complainant’s SODEXHO marks and trade.

The Panel notes that the additional term in the disputed domain name is generic. Instead of a distinction, it wrongfully implies that a digital application (“app”) supposedly provided by the Complainant may be found at the Respondent’s website, thus likely confounding consumers, similarly to the ruling provided in the precedent *SoftCom Technology Consulting Inc. v. Olariu Romeo/Orv Fin Group S.L.*, WIPO Case No. [D2008-0792](#).

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.

Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy, in particular under paragraph 4(b)(iv) of 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 <sodexoapp.com> be transferred to the Complainant.

/Gilberto Martins de Almeida/

Gilberto Martins de Almeida

Sole Panelist

Date: October 28, 2024