

ADMINISTRATIVE PANEL DECISION

Sodexo v. JON SPAUGY

Case No. D2024-5307

1. The Parties

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

The Respondent is JON SPAUGY, United States of America.

2. The Domain Name and Registrar

The disputed domain name <sodexolies.info> is registered with Amazon Registrar, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 24, 2024. On December 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 7, 2025, 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 (“On behalf of sodexolies.info owner”, Identity Protection Service) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 9, 2025, 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 January 10, 2025.

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 13, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 2, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 9, 2025.

The Center appointed Stefan Bojovic as the sole panelist in this matter on February 12, 2025. 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 and is one of the largest companies in the world specialized in food services and facilities management, with 423,000 employees serving 80 million consumers in 45 countries.

The Complainant owns a number of trademark registrations in various jurisdictions for its SODEXO trademark, including the following:

- International trademark registration No. 1240316 for SODEXO, registered on October 23, 2014; and
- European Union trademark registration No. 008346462 for SODEXO, registered on February 1, 2010.

The Complainant also holds many domain names that reflect its SODEXO trademark, including <sodexo.com>, registered on October 9, 1998 and which is used for the official website of the Complainant.

The disputed domain name was registered on December 11, 2024 and it resolves to an inactive page.

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 it is the owner of the well-known SODEXO trademark and that the disputed domain name is confusingly similar to the Complainant's registered trademark. The addition of the negative term "lies" is inoperative to distinguish the disputed domain name from the Complainant's trademark.

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant contends that 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 Respondent should not be regarded as commonly known by the disputed domain name.

With reference to the circumstances evidencing bad faith, the Complainant indicates that its SODEXO trademark is well-known and that the Respondent knew its existence when he registered the disputed domain name and knew that he had no rights or legitimate interests in the disputed domain name. The word "sodexo" is purely fanciful and nobody could legitimately choose this word or any variation thereof, unless seeking to create an association with the Complainant. 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 disrupting the Complainant's business and maybe for diverting third parties for Respondent's illegitimate profit. Although the disputed domain name is not actively used, the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding.

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 stipulates that the complainant must prove each of the following:

- (i) that the disputed 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 disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

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 entirety of the Complainant’s SODEXO trademark 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.

The disputed domain name contains word “lies” in addition to the Complainant’s SODEXO trademark. A domain name consisting of a trademark and a negative or pejorative word is considered confusingly similar to the complainant’s trademark for the purpose of satisfying standing under the first element. The merits of such cases, in particular as to any potential fair use, are typically decided under the second and third elements. [WIPO Overview 3.0](#), section 1.13.

In addition, it is well established that the generic Top-Level Domain “.info” can be disregarded in the assessment of the confusing similarity between the disputed domain name and the Complainant’s trademark. [WIPO Overview 3.0](#), section 1.11.1.

The Panel, therefore, finds that 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.

The Panel notes that there seems to be no relationship between the Respondent and the Complainant and that the Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant's SODEXO trademark. The Respondent also does not appear to be commonly known by the disputed domain name.

The Panel also underlines that the structure of the disputed domain name, which contains the Complainant's SODEXO trademark along with negative word "lies", may indicated the legitimate use of the disputed domain name for criticism of the Complainant and its activities. However, the Panel holds that the mere structure of a domain name is insufficient to find legitimate interest if there is no genuine criticism website attached to a domain name. In the case at hand, the disputed domain name does not resolve to any active website and the Respondent has not provided any response that could shed a light on use or even on potential plans for use of the disputed domain name for legitimate purposes. In view of the above, the Panel sees no justification to accept that the Respondent has intended to use the disputed domain name for exercise of free speech and therefore has a legitimate interest in it under the Policy (see section 2.6.3 of [WIPO Overview 3.0](#), *Mobile Mini, Inc. v. Derek Carmichael*, WIPO Case No. [D2015-0350](#) and *Blackbaud, Inc. v. Jiangbo Dong*, WIPO Case No. [D2022-2154](#)).

Having in mind the above, 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.

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.

In the present case, the Panel notes that the Respondent must have been well aware of the Complainant and its SODEXO trademark at the time of the registration of the disputed domain name. The Complainant's trademark SODEXO appears to be an invented word that is used exclusively by the Complainant. It is, therefore, highly unlikely that the Respondent decided to register a domain name containing this trademark in its entirety without having the Complainant in mind when doing so. It should be also borne in mind that the registration and use of SODEXO trademark predates the registration of the disputed domain name by decades, making it unlikely that the Respondent was not aware of the Complainant's trademark at the time of registration of the disputed domain name.

Due to the above, the Panel finds that the disputed domain name has been registered in bad faith.

The disputed domain name does not resolve to any active website, meaning that the disputed domain name has not been actively used by the Respondent. Nevertheless, the Panel holds that the particular circumstances of this case would lead to establishment of the bad faith on the Respondent's side under the doctrine of passive holding. Previous panels have already considered that passive holding of a disputed domain name can satisfy the requirements of paragraph 4(a)(iii) of the Policy, and that in such cases the panel must give close attention to all the circumstances of respondents' behavior (*Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)). The principles established in *Telstra Corporation Limited v. Nuclear Marshmallows*, had been widely adopted by UDRP panels and have found its place in [WIPO Overview 3.0](#). In accordance with section 3.3 of [WIPO Overview 3.0](#), 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 domain name may be put. It should be emphasized that it is not required that all the above-listed factors be present in order to establish bad faith use of the disputed domain name (see, for example, *Compagnie Générale des Etablissements Michelin v. K Nandalal, BlueHost*, WIPO Case No. [D2021-3990](#)).

The Complainant's SODEXO trademark is highly distinctive as it represents an invented word used exclusively by the Complainant. On the other side, the structure of the disputed domain name may indicate the potential use of the disputed domain name for legitimate criticism of the Complainant. However, the Respondent has failed to provide a response and thereby to submit evidence of any actual or contemplated good faith use of the disputed domain name. In particular, there is nothing in the record that could indicate the Respondent's use or demonstrable preparations to use the disputed domain name for criticism of the Complainant. In the absence of any evidence to the contrary, the Panel accepts as more likely that the intention of the Respondent in registering the disputed domain name was to take advantage of the Complainant's trademark rights (see *Blackbaud, Inc. v. jiangbo Dong*, WIPO Case No. [D2022-2154](#)).

Therefore, the Panel finds that the disputed domain name has been both registered and is being used in bad faith, and consequently 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 <sodexolies.info> be transferred to the Complainant.

/Stefan Bojovic/

Stefan Bojovic

Sole Panelist

Date: February 26, 2025