

## **ADMINISTRATIVE PANEL DECISION**

Sodexo v. Jason L Monroe  
Case No. DCO2022-0018

### **1. The Parties**

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

The Respondent is Jason L Monroe, United States of America (“United States”).

### **2. The Domain Name and Registrar**

The disputed domain name <sodexolink.co> is registered with Sav.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 3, 2022. On March 3, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on March 4, 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 March 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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 31, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 12, 2022.

The Center appointed Torsten Bettinger as the sole panelist in this matter on April 22, 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

The Complainant is a French limited company, which was founded in 1966. It is one of the largest companies in the world, specialized in food services and facilities management. It has over 420,000 employees, serving 100 million consumers in 64 countries. It is one of the largest employers in the world.

From 1966 to 2008, it promoted its business under the mark SODEXHO but in 2008 simplified the spelling of its trading name to SODEXO and changed its trading logo to incorporate SODEXO rather than SODEXHO. The Complainant relies upon the following registrations:

- SODEXO plus logo International registration 964615 registered on January 8, 2008 (renewed in 2018), in international classes; 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45 protected in *inter alia* the European Union and United States.
- SODEXO International registration 1240316 registered on October 23, 2014, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45 protected in Iran (Islamic Republic of), Mozambique, and United Kingdom.
- SODEXHO plus logo International registration 694302 registered on January 22, 1998 (renewed in 2018), in international class 9 protected in *inter alia* in Armenia, Austria, Azerbaijan, Benelux, Belarus, Switzerland, China, Czech Republic, Germany, Denmark, Algeria, Egypt, Spain, Finland, United Kingdom, Greece, Hungary, Iceland, Italy, Japan, Democratic People's Republic of Korea, Kazakhstan, Latvia, Morocco, Monaco, Montenegro, Norway, Poland, Portugal, Romania, Serbia, Russian Federation, Sweden, Slovenia, Slovakia, Ukraine, and Viet Nam.
- SODEXHO plus logo International registration 689106 registered on January 28, 1998 (renewed in 2018), in international classes 16, 36, 37, 39, 41, and 42 protected in *inter alia* China, Germany, United Kingdom, Japan, Democratic People's Republic of Korea, and Russian Federation.
- SODEXO European Union registration 008346462 registered on February 1, 2010, in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.
- SODEXO plus logo European Union registration 006104657 registered on June 27, 2008 (renewed in 2017), in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.
- SODEXO QUALITY OF LIFE SERVICES plus logo International registration 1195702 registered on October 10, 2013, in international classes 9, 16, 35, 36, 37, 38, 39, 41, 42, 43, 44, and 45 protected in Australia, China, and United States.
- SODEXO QUALITY OF LIFE SERVICES plus logo European Union registration 011138501 registered on January 22, 2013, in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.

The Complainant is also the owner of numerous domain names containing SODEXO or SODEXHO including, for example; <sodexo.com>, <sodexousa.com>, <us.sodexo.com>, <uk.sodexo.com>, <sodexoprestige.co.uk>, <sodexo.fr>, <sodexoca.com>, <cn.sodexo.com>, <sodexho.fr>, and <sodexho.com>.

The disputed domain name was registered on September 16, 2021. According to the Panel's research and the material in the record, the disputed domain name resolves to a parking page with pay-per-click ("PPC") links.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

With regard to the requirement of identity or confusing similarity between the trademark and the disputed domain name pursuant to paragraph 4(a)(i) of the Policy, the Complainant asserts that:

- the disputed domain name reproduces the Complainant's trademark which previous UDRP panels have considered to be "well known" or "famous", in its entirety;
- the incorporation of a well known trademark SODEXO in its entirety is sufficient to establish that the disputed domain name is confusingly similar to the Complainant's trademark;
- the addition of the term "link" does not distinguish the disputed domain name from the Complainant's famous SODEXO mark.

With regard to the Respondent having no rights or legitimate interests in the disputed domain name, the Complainant submitted that:

- the Respondent is not affiliated with the Complainant in any way nor has he been authorized by the Complainant to use and register its SODEXO trademark, or to seek registration of any domain name incorporating the SODEXO trademark;
- the Respondent was not commonly known by the disputed domain name prior to the adoption and use of the mark and business name SODEXO by the Complainant;
- the Respondent has not made any reasonable and demonstrable preparations to use the disputed domain name and therefore failed to show any intention of noncommercial or fair use of the disputed domain name.

Finally, with regard to the disputed domain name having been registered and being used in bad faith, the Complainant argues that:

- the Complainant's SODEXO trademark is well known throughout the world including the United States where the Respondent is located;
- the disputed domain name reproduces the Complainant's trademark SODEXO in its entirety;
- given the notoriety of the trademark SODEXO, it is inconceivable that the Respondent was unaware of the Complainant and its rights in the trademark SODEXO when he registered the disputed domain name;
- the Respondent's knowledge of the Complainant's trademark rights at the time of registration of the disputed domain name proves bad faith registration;
- by using the disputed domain name for a PPC website containing links to competing websites and unrelated websites the Respondent attempts, for commercial gain, to attract Internet users to its website by creating Internet user confusion and diluting the Complainant's SODEXO trademark.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy states that the Complainant must prove each of the three following elements:

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

## A. Identical or Confusingly Similar

The Complainant has demonstrated that it owns multiple trademark registrations for the mark SODEXO.

It is well established that the test of identity or confusing similarity under the Policy is confined to a comparison of the disputed domain name and the trademark alone, independent of the products for which the trademark is used. (See sections 1.1.2 and 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”))

In this case, the disputed domain name contains the SODEXO trademark in its entirety. As set forth in section 1.7 of the [WIPO Overview 3.0](#): “in cases where a domain name incorporates the entirety of a trademark [...] the domain name will normally be considered confusingly similar to that mark.” (See, e.g., *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) (“the fact that a domain name wholly incorporates a complainant’s registered mark is sufficient to establish identity or confusing similarity for purposes of the Policy”)).

Moreover, it has been held in many UDRP decisions and has become a consensus view among panelists (see section 1.8 of the [WIPO Overview 3.0](#)), that the addition of other terms (whether, e.g., descriptive or otherwise) does not prevent a finding of confusing similarity under the first element of the UDRP. Accordingly, the addition of the term “link” does not prevent a finding of confusing between the Complainant’s SODEXO trademark and the disputed domain name.

Finally, it is well accepted in past UDRP decisions that the generic Top-Level Domain (“gTLD”), such as “.com”, “.club”, “.nyc”, is typically not to be taken into account when assessing the issue of identity and confusing similarity, except in certain cases where the applicable gTLD may itself form part of the relevant trademark (see section 1.11 of the [WIPO Overview 3.0](#)). This practice of disregarding the TLD in determining identity or confusing similarity is applied irrespective of the particular TLD (including with regard to “new gTLDs”).

The Panel therefore concludes that the disputed domain name is confusingly similar to the Complainant’s SODEXO trademark in which the Complainant has exclusive rights.

## B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish its rights or legitimate interests in the domain name, among other circumstances, by showing any of the following elements:

“(i) before any notice to you [the Respondent] of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) you [the Respondent] (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you [the Respondent] are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

The Complainant has asserted and presented evidence that the disputed domain name resolves to a parked page comprising PPC advertising links and that these links redirect Internet users to various sites and services, some of which compete with the Complainant’s offerings. The Complainant also stated that the Respondent is not a licensee, authorized agent of the Complainant or in any other way authorized to register the disputed domain name.

These assertions and evidence are sufficient to establish a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

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 disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent chose not to contest the Complainant's allegations and has failed to come forward with any evidence to refute the Complainant's *prima facie* showing that the Respondent lacks rights or legitimate interests. The Panel therefore accepts these allegations as undisputed facts.

From the record in this case, the Respondent has also not used the disputed domain name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. Rather, the evidence demonstrates that the Respondent has used the disputed domain name to resolve to a PPC advertising webpage featuring various links that redirect Internet users to unrelated or competing websites.

The Panel therefore concludes that the Respondent has no rights or legitimate interest in the disputed domain name and that, accordingly, the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy provides four, non-exclusive, circumstances that, if found by the Panel to be present, shall be evidence of the registration and use of the disputed domain name in bad faith:

- (i) circumstances indicating that the Respondent has registered or has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of the Complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) the Respondent has registered the disputed domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or
- (iii) the Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

The Complainant holds multiple trademark registrations for the SODEXO trademark in various jurisdictions that predate the registration of the disputed domain name.

Given that the Complainant's SODEXO mark is widely known in many countries worldwide and that the disputed domain name contains the SODEXO mark in its entirety, it is inconceivable that the Respondent coincidentally registered the disputed domain name without any knowledge of the Complainant's rights in the SODEXO trademark.

The Panel therefore concludes that the Respondent registered the disputed domain name in bad faith.

Based on the record in this proceeding it is also undisputed that the disputed domain name redirects Internet users to a PPC parking page featuring links to websites, some of which compete with the Complainant's offerings.

The purpose of this PPC parking website clearly was to attract Internet users to the site, presumably for profit, based on the confusing similarity between the disputed domain name and the Complainant's trademark. Once on the Respondent's webpage, some users likely click on PPC links, which presumably result in click-through fees and thus in a commercial benefit for the Respondent.

The Panel therefore infers that the Respondent by using the disputed domain name in this manner, has intentionally created a likelihood of confusion with the Complainant's trademark for the Respondent's financial gain pursuant to para 4(b)(iv) of the Policy and that therefore the Complainant has also satisfied its burden of proving that the Respondent used the disputed domain name in bad faith.

## **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, <sodexolink.co>, be transferred to the Complainant.

*/Torsten Bettinger/*

**Torsten Bettinger**

Sole Panelist

Date: May 6, 2022