

## ADMINISTRATIVE PANEL DECISION

Sodexo v. Name Redacted

Case No. DCO2023-0098

### 1. The Parties

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

The Respondent is Name Redacted.<sup>1</sup>

### 2. The Domain Name and Registrar

The disputed domain name <sodexos.co> (“Disputed Domain Name”) is registered with Key-Systems GmbH (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 15, 2023. On November 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On November 17, 2023, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 20, 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 November 22, 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”).

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<sup>1</sup> The Respondent appears to have used the name of a third party when registering the Disputed Domain Name. In light of the potential identity theft, the Panel has redacted the 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Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case.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 November 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 14, 2023.

The Center appointed Zoltán Takács as the sole panelist in this matter on December 19, 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**

Founded in 1966, the Complainant is a French company, one of the largest in the world specialized in food services and facilities management.

The Complainant employs 430,000 people and serves daily 80 million consumers in 45 countries.

The Complainant owns an extensive portfolio of trademarks consisting of or comprising the term SODEXO, including the European Union Trademark Registration No. 008346462 for the word mark SODEXO, registered since February 1, 2010, for a variety of goods and services.

The Complainant also owns numerous domain names corresponding to or containing its SODEXO trademark.

The Complainant's primary international website is located at "www.sodexo.com" with the corresponding domain name <sodexo.com> being registered since October 9, 1998.

The Disputed Domain Name was registered on November 9, 2023, and appears not to have resolved to an active website.

#### **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 Disputed Domain Name, which fully incorporates its SODEXO trademark, is confusingly similar because the mere addition of the letter "s" is not sufficient to distinguish the Disputed Domain Name from the trademark;
- the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- the Respondent has knowingly and without any authorization incorporated its well-known SODEXO trademark in the Disputed Domain Name highly likely to create unlawful association with the Complainant and its activities.

The Complainant requests that the Disputed Domain Name be transferred from the Respondent to the Complainant.

## **B. Respondent**

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

However, it appears from the documentation provided by the Complainant that the individual listed as the domain name registrant may be an unknowing victim of an identity theft.

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules requires that the Panel's decision be made "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".

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the 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.

Based on the available record, the Panel finds 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 Panel finds 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.

Based on the available record, 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. The mere nature of the Disputed Domain Name, composed of the entirety of the Complainant's distinctive mark with an added "s", is inherently misleading and thus such composition cannot constitute fair use.

Based on the available record, 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.

It has been well-established in prior decisions under the UDRP, with which the Panel agrees, that the Complainant's SODEXO trademark is well known globally (see e.g., *Sodexo v. Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2022-0754](#), and *Sodexo v. Domain Admin, Domain Privacy Guard Sociedad Anónima Ltd*, WIPO Case No. [D2021-2752](#)).

UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

In the present case, the Panel also notes that the Respondent replicated the Complainant's well-known and distinctive SODEXO trademark in the Disputed Domain Name. Hence, in the Panel's view the Respondent must have had the Complainant's SODEXO trademark in mind at the time of registration and had registered the Disputed Domain Name in order to target the Complainant and its well-known trademark.

The Panel's finding on bad faith is reinforced given the actual registrant's likely abuse of a third party's identity for the purposes of the registration of the Disputed Domain Name. [WIPO Overview 3.0](#), section 3.4.

As mentioned above, there is no evidence that the Disputed Domain Name has resolved to an active website.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Although panelists will look at the totality of the circumstances in each case, 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, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, the composition of the Disputed Domain Name as mentioned above, as well as the Respondent's failure to provide any good faith explanation as to its registration of the Disputed Domain Name. Furthermore, any good faith use to which the inherently misleading Disputed Domain Name may be put appears to be implausible. Accordingly, the Panel finds that in the circumstances of this case the passive holding of the Disputed Domain Name does not prevent a finding of bad faith under the Policy.

Based on the available record, 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 <sodexos.co> be transferred to the Complainant.

*/Zoltán Takács/*

**Zoltán Takács**

Sole Panelist

Date: January 2, 2024