

ADMINISTRATIVE PANEL DECISION

SODEXO v. Dominique Allen

Case No. D2023-3654

1. The Parties

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

The Respondent is Dominique Allen, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <sodexoopps.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 30, 2023. On August 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 1, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 4, 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 the same date.

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 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 26, 2023.

The Center appointed Halvor Manshaus as the sole panelist in this matter on September 28, 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

The Complainant is a French company founded in 1966 with 422,000 employees, specializing in food services and facilities management. Operating under the trademark SODEXO, the Complainant provides a wide range of services serving 100 million consumers daily in 53 countries. Further, the Complainant promotes its activities under, among others, the domain names <sodexo.com>, <uk.sodexo.com>, <sodexoprestige.co.uk>, <sodexo.fr>, <sodexoca.com>, <sodexousa.com>, <cn.sodexo.com>, <sodexho.fr>, and <sodexho.com>.

The Complainant has, among others, registered the following trademarks containing the SODEXO mark:

- The International trademark registration number 964615 in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45, registered on January 8, 2008;
- The International trademark registration number 1240316 for classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45, registered on October 23, 2014;
- The European Union trademark registration number 008346462 for classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45, registered on February 1, 2010;
- The European Union trademark registration number 006104657 for classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45, registered on June 27, 2008;

The Complainant's trademark has a strong reputation and is well known.

The disputed domain name resolves to a parking page with Pay-Per-Click ("PPC") links. Further, a sub-domain connected to the disputed domain name points to an online payment page.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant's trademarks as the disputed domain name reproduces the SODEXO mark, combined with the element "opps" which could be interpreted as a slang abbreviation for the words "opponents" or "enemies". According to the Complainant, the addition of the "opps" element fails to distinguish the disputed domain name from the Complainant's trademark as the latter remains the dominant component within the disputed domain name. Further, the addition of a generic or descriptive term to the mark does not alter the fact that the disputed domain name is confusingly similar to the Complainant's trademark.

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has no affiliation, association, sponsorship or connection with the Complainant. Furthermore, the Complainant has neither authorized, licensed, nor otherwise granted permission for the Respondent to register or utilize the disputed domain name. The Respondent was not commonly known by the disputed domain name prior to its registration and use, and as per the Complainant's knowledge, the Respondent possesses no legitimate interests or rights to the disputed domain name or to the SODEXO mark.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. Firstly, the Complainant argues that due to the well-known character and reputation associated with the Complainant's trademark, as well as the fanciful nature of the Complainant's trademark, the Respondent knew of the Complainant's rights to the SODEXO mark. Secondly, the Complainant asserts that the Respondent is using the disputed domain name to exploit the confusing similarity to the Complainant's trademark to attract Internet users to the websites of the Complainant's competitors and to an online payment page for commercial gain, likely with a fraudulent aim.

B. Respondent

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

6. Discussion and Findings

The Complainant has, in accordance with paragraph 4(a) of the Policy, requested that the disputed domain name be transferred to the Complainant.

In accordance with paragraph 4(a) of the Policy, to succeed in this proceeding and have the disputed domain name transferred, the Complainant must establish that the three following elements are satisfied for the disputed domain name:

- (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.

Pursuant to paragraph 15(a) of the Rules, the Panel shall decide the Complaint based on the statements and documents submitted and in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable. Furthermore, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

Based on the evidence submitted by the Complainant and, in particular, with regards to the content of the relevant provisions of the Policy (paragraph 4(a), (b), and (c)), the Panel concludes as follows:

A. Identical or Confusingly Similar

Under the first element of paragraph 4(a) of the Policy, the Complainant must establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

Considering the evidence submitted by the Complainant, the Panel finds that the Complainant has rights in the SODEXO trademark as it is the holder of several trademark registrations of SODEXO.

The disputed domain name incorporates the Complainant's trademark in its entirety with the addition of the term "opps". The Panel finds that the addition of the term "opps" does not prevent the confusing similarity to the Complainant's trademark. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") section 1.8.. The generic Top-Level Domain ("gTLD").com" is not typically considered when assessing the confusing similarity between a disputed domain name and a complainant's trademark.

In light of the above considerations, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's trademark and that the requirements under paragraph 4(a) of the Policy have been satisfied.

B. Rights or Legitimate Interests

For the Complainant to succeed under paragraph 4(a)(ii) of the Policy, the Complainant must establish a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. If the Complainant shows a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, the evidentiary burden of production shifts to the Respondent. See section 2.1 of the [WIPO Overview 3.0](#).

The Panel finds that the presented evidence submitted by the Complainant is sufficient to establish a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. Further, the Panel concludes that the disputed domain name is used for a parking page with PPC links. Noting also the composition of the disputed domain name, the Panel finds that the use of the disputed domain name to host a parked page with PPC links does not represent a *bona fide* offering. [WIPO Overview 3.0](#), section 2.9. Further, given the unrebutted evidence alleging the existence of a sub-domain at <pay.sodexoopps.com>, wherein users are requested to enter payment information, the Panel finds that the Respondent is clearly intent on commercial gain or the collection of payment information, neither of which confers rights or legitimate interests upon the Respondent under the circumstances of this proceeding.

The Panel has not been presented with, or discovered, any evidence that (i) the Respondent has received a license or other permission to use the Complainant's trademark or any domain name incorporating this mark; (ii) the Respondent is commonly known by the disputed domain name; (iii) the Respondent has acquired trademark rights to use the disputed domain name; or (iv) the Respondent is making legitimate noncommercial or fair use of the disputed domain name.

Based on the above, the Panel concludes that the conditions in paragraph 4(a)(ii) of the Policy have been met.

C. Registered and Used in Bad Faith

For the Complainant to succeed under the third element of paragraph 4(a) of the Policy, the Complainant must demonstrate that the disputed domain name has been registered and is being used in bad faith.

The Panel finds it unlikely that the Respondent was unaware of the Complainant's trademark registrations as the Complainant's trademark is well known and predates the registration of the disputed domain name.

Further, the Panel finds that the website hosted on the disputed domain name likely was established to achieve commercial gain by misleading Internet users, by creating a likelihood of confusion with the Complainant's trademark. Additionally, the existence of the sub-domain name created from the disputed domain name, directing users to an online payment page, also indicates that the Respondent more likely than not had intentions of engaging in potential fraudulent activities, which constitutes bad faith.

Moreover, 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.

The Panel therefore concludes that the Complainant has demonstrated that the Respondent both registered and is using the disputed domain name in bad faith. Consequently, the Panel concludes that the Complainant has satisfied the requirements of paragraph 4(a)(iii) 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, <sodexoops.com>, be transferred to the Complainant.

Halvor Manshaus

Halvor Manshaus

Sole Panelist

Date: October 12, 2023