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INDIA NON JUDICIAL

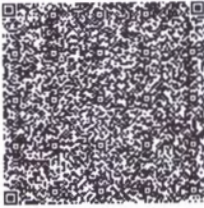
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Certificate Issued Date : 17-Feb-2023 04:13 PM
Account Reference : SELFPRINT (PU)/ dl-self/ NEHRU/ DL-DLH
Unique Doc. Reference : SUBIN-DLDL-SELF02428210210872V
Purchased by : SHEETAL VOHRA
Description of Document : Article 12 Award
Property Description : PASSING OF ARBITRATION AWARD
Consideration Price (Rs.) : 0
(Zero)
First Party : DR SHEETAL VOHRA
Second Party : NOT APPLICABLE
Stamp Duty Paid By : DR SHEETAL VOHRA
Stamp Duty Amount(Rs.) : 100
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Sheetal vohra

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**BEFORE THE SOLE ARBITRATOR UNDER THE .IN DOMAIN NAME
DISPUTE RESOLUTION POLICY
INDRP ARBITRATION
THE NATIONAL INTERNET EXCHANGE OF INDIA [NIXI]
INDRP CASE NO: 1650
ARBITRAL TRIBUNAL CONSISTING OF SOLE ARBITRATOR
DR. SHEETAL VOHRA, LLB, LLM, PHD (LAW) ADVOCATE,
COMPLAINT UNDER .IN DOMAIN NAME DISPUTE RESOLUTION POLICY
(INDRP)**

IN THE MATTER OF:

Sodexo

255, Quai de la Bataille de Stalingrad,
92130 Issy-Les-Moulineaux,
France

...Complainant

Versus

Sugarcane Internet Nigeria Limited

4 Akanbi Danmole St,
Ikoyi 106104, Lagos,
Nigeria

...Respondent

ARBITRATION AWARD

I. THE PARTIES:

1. COMPLAINANT:

The Complainant in these administrative proceeding is Sodexo (hereinafter referred to as "*the Complainant*"), a French Company. It was submitted that the Complainant's principal place of business is France, and it does business in many countries around the world.

- i. The Complainant's contact details are as follows:

Sheetal vohra

Address:

255, Quai de la Bataille de Stalingrad,
92130 Issy-Les-Moulineaux,
France

- ii. The Complainant's authorised representative is these administrative proceedings is:
Mrs. Dahlia Sen Oberoi
Sen-Oberoi

Attorneys-at-Law

A-18, Chittranjan Park New Delhi -110019

Tel.: (+91-11) 41602150

Mobile: 9811117616

Email: dahlia@sen-oberoi.com

Copy of the duly executed letter of authority from the Complainant authorizing the above-mentioned authorized representative to act on Complainant's behalf has been enclosed as **Annexure 1.**

- iii. The Complainant's preferred method of communication in the administrative proceedings is as follows:

Method: Email

Address: Mrs. Dahlia Sen
Oberoi Sen-Oberoi

Attorneys-at-Law

A-18, Chittranjan Park
New Delhi -110019

Tel.: (+91-11) 41602150

Mobile: 9811117616

Email: dahlia@sen-oberoi.com

2. RESPONDENT

According to WHOIS database of NIXI the Respondent in these administrative proceedings is Sugarcane Internet Nigeria Limited. The domain name in issue was registered on September 7, 2022. A copy of the details as found on WHOIS has been enclosed as **Annexure 2.**

Dahlia Sen Oberoi

- i. The Complaint has in the Complaint stated that it is aware of the following contact for the Respondent:

4 Akanbi Danmole St,
Ikoyi 106104, Lagos,
Nigeria

Phone: +234.7060647844

Email: sugarcane@mm.st

II. THE DOMAIN NAME AND REGISTRAR

The Disputed Domain Name is: sodexo-sodexo-zetaapps.in

The Disputed Domain Name is registered with IN Registry.

The accredited Registrar of the Disputed Domain Name is GoDaddy.com, LLC.

III. JURISDICTIONAL BASIS FOR THE ADMINISTRATIVE PROCEEDINGS.

It was submitted that this dispute is property within the scope of the Policy and the Administrative Panel has jurisdiction to decide the dispute.

It was stated that the domain name sodexo-sodexo-zetaapps.in was created on September 7, 2022.

A true and correct copy of the .IN Domain Name Dispute Resolution Policy that applies to the domain name in question has been enclosed as **Annexure 3.**

The Respondent is required to submit to the mandatory administrative proceeding because:

- 1) The domain name is identical to the trademark/tradename in which the Complainant has rights; and
- 2) The Respondent has no rights or legitimate interests in respect of the domain name; and
- 3) The domain name was registered with *mala fide* intention and with bad faith.

IV. PROCEDURAL HISTORY:

January 04, 2023	Sole Arbitrator appointed to adjudicate the dispute
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January 04, 2023	Arbitral proceedings were commenced by sending notice to Respondent through email as per Paragraph 4(c) of INDRP Rules of Procedure, marking copy of the same to Complainant's authorized representative and to the .IN Registry to file response to the Complaint within 15 days of receipt of the same.
January 19, 2023	Pleadings completed as Respondent failed and neglected to file its response to the domain complaint within 15 days' time period which commenced on January 19, 2023. As the Respondent failed to file his response within the stipulated 15 days' time period intimated to all parties, the instant award is being passed

V. **FACTUAL GROUNDS:**

The complaint is based on the factual grounds set out below:

1. It was submitted that the present complaint is instituted on account of misappropriation of the trademark/tradename **SODEXO** as part of the domain name by the Respondent.
2. It was submitted that the Complainant is a global leader in providing services that impact the Quality of Life for its clients and their employees in the corporate segment and remote sites, patients and visitors in the healthcare segment, and students and faculty in the education segment. It was submitted that the Complainant's principal place of business is France, and it does business in many countries around the world. It was submitted that Complainant had 420,000 employees and was the 19th largest employer worldwide, as of August 31, 2015. The documents evidencing the above have been filed as **Annexure-4**.
3. It was submitted that in the view of its objective- **Better Tomorrow 2025**, the Complainant works to strengthen its commitment and performance to corporate responsibility. It was submitted that the Complainant is the first global foodservices

Wheeler Volta

company to connect its financing to action to prevent food waste. It was submitted that the with a renewed partnership with WWF, the Complainant continues to work toward its sector-leading 34% Sciences-based carbon emissions reduction target by 2025 (compared to a 2017 baseline) by committing to eliminate deforestation from its supply chain by 2030.

4. It was submitted that the Complainant earned revenue of Euro 19.3 billion and serves 100 million consumers every day. It was submitted that the Complainant was established in the year 1966 and currently is present at 32,000 sites in more than 64 countries. It was submitted that the Complainant had been using the trademark/trade name **SODEXHO** since its incorporation in the year 1966. It was submitted that the in the year 2008, the Complainant changed its tradename and trademarks to **SODEXO**. The copies evidencing the above have been filed as **Annexure-5**.
5. It was submitted that the strength and goodwill of the Complainant's trademark/tradename SODEXO can be further reiterated from the fact that the Complainant has been honoured with many awards. A few of the awards recently received by the Complainant are named below:

Year	Award
2022	For the 17 th consecutive year, Complainant has been ranked as one of the top-rated companies of the Restaurants & Leisure Facilities on the S&P Global Dow Jones Sustainability World Index.
2022	For the 14 th consecutive year, Complainant has been recognized as the top diversity leader by DiversityInc.
2022	For the 15 th consecutive year, Complainant has been ranked amongst the top-scoring in its industry for sustainability performance.

Usheta Vohra

2022	The Complainant received a 'B' Score in CDP (formally Carbon Disclosure Project), which is above the average score of 'B-'.
2022	The Complainant received an 'A' score in CDP's Global Supply Chain Report 2021, recognizing its actions to measure and reduce environmental risks within supply chain.
2022	The Complainant has been placed in the top 1% of companies by EcoVadis which is a collaborative platform used to evaluate corporate responsibility.
2021	The Complainant has been once again recognized by the European Women on Boards for having gender-balanced governance.
2021	The Complainant is a constituent of the FTSE4Good Index.
2021	The Complainant was ranked no. 2 for gender balance within its governing bodies among 2021 French publicly listed companies.
2021	The Complainant has been awarded 2021 Best-of-the-Best Corporations for United States National LGBT Chamber of Commerce.

The documents evidencing the above have been filed as **Annexure 6.**

6. It was submitted the Complainant With specific reference to India, the Complainant has been present in the country since 1997 and provides a bouquet of 100+ service offerings to various corporates, healthcare organisations, manufacturing locations and schools and universities. It was submitted that the Complainant's solutions include food and catering, facilities management, technical services, workplace experience, energy management and benefits and rewards services. All of its solutions are aimed to improve the Quality of Life of its consumers, clients, employees and the communities at large. The documents evidencing the above have been filed as **Annexure 7.**

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7. It was submitted that the Complainant has spent considerable amount of resources on numerous activities to maintain and heighten the popularity of its tradename/trademark under the brand **SODEXO**. It was submitted that Over the years, the Complainant's trademark/tradename **SODEXO** have been discussed in numerous trade journals and other trade literature. It was submitted that keeping abreast with the technological advancement of media, the Complainant has taken steps to make information about itself as well as its products readily available to all. It was submitted that Complainant is also present on various social media platforms like Instagram, Twitter and LinkedIn. It was submitted by the Complainant that, needless to say, this has added to the awareness of the Complainant's trademarks world over as well as in India, which has translated into more popularity of the products.
8. It was submitted that any Internet search done on the popular search engines i.e., Google, Yahoo, etc. for the Complainant's trademark/tradename **SODEXO** leads to the products/website/information about the Complainant. It was submitted that this clearly substantiates the popularity of the Complaint's marks in India. The screenshot of the searches has been filed as as **Annexure 8.**
9. It was submitted that the Complainant by virtue of the facts stated above undoubtedly enjoys enviable reputation and goodwill in tradename/trademark **SODEXO**. It was submitted that the it has been a conscious effort on the part of the Complainant to maintain the purity and distinctiveness of the trademarks globally for its superior quality products.

10. **LEGAL GROUNDS**


The Complainant relied upon the following grounds in support of the Complaint and its claim:

A. **THE COMPLAINANT'S TRADEMARK REGISTRATIONS**



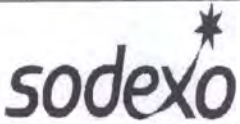
It was submitted that the Complaint have various international registrations for the **SODEXO** trademark world over. The list along with copies of various

Sheetar Sharma

international registrations as well as status has been filed as **Annexure 9.** It was submitted that the Complainant's EUTM registration for the mark

 under no. 6104657 stands registered since June 27, 2008 in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45.

It was submitted that the In India, the Complainant is the proprietor of the following trademarks:

Trademark	Class	Trademark No.	Status
 QUALITY OF LIFE SERVICES 	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45	2480740	Registered
	36, 37	1236741	Registered
	9, 16, 35, 36, 37, 38, 39, 40, 41, 42	1635770	Registered

It was submitted that the above-mentioned registrations are valid, subsisting and in full legal force. It was submitted that the registrations vest in the Complainant the exclusive right to use the mark **SODEXO**. The copies of the registration certificates as well as status of these trademarks has been filed as **Annexure 10.**

B. The Complainant's Domain Name Registrations

It was submitted that the Besides the Complainant's main domain name registration <https://www.sodexo.com/home.html>, the Complainant has country specific domain names including one for India i.e. <https://www.sodexo.in/>. Copies of the WHOIS search results for the said domain names have been filed as **Annexure 11.**

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C. The Complainant's SODEXO WIPO decisions

It was submitted that the Complainant has been very vigilant in taking appropriate action against identical/similar domain names. It is pertinent to note here that in a decision dated August 21, 2020, under n° D2020-1580, the WIPO Arbitration and Mediation Center recognized the well-known character of the tradename/trademark **SODEXO**. It was submitted that the learned Tribunal ordered the transfer of the disputed domain name "sodexobenefifscdntr.com", which was connected to a commercial French website selling ready-made clothes and beauty products. In its decision the learned Tribunal observed:

"It was submitted that the Complainant's business is truly international and of such a size and scope that it has developed a very substantial reputation and goodwill as has been recognized by previous UDRP panels"

It was submitted that there have been many such orders by WIPO Arbitration and Mediation Center and various other registries including

- *Sodexo v. Contact Privacy Inc. Customer 1246780534 / Chivers Michael, WIPO CaseNo. D2020-0865,*
- *Sodexo v. WhoisGuard Protected, WhoisGuard, Inc. / New World, WIPO Case No.DCO2020-0021,*
- *Sodexo v. Contact Privacy Inc. Customer 1247228940 / James Lehman, WIPO CaseNo. D2020-1281,*
- *Sodexo v. Registration Private, Domains By Proxy, LLC / Krissa Pucket, WIPO CaseNo. D2020-1315*
- *Sodexo v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico, WIPO Case No. D2020-1580.*

The copies of few of the decisions have been filed as **Annexure 12.**

D. THE DOMAIN NAME "SODEXO-SODEXO-ZETAAPPS.IN" IS IDENTICAL TO THE SODEXO TRADE NAME/TRADEMARK IN WHICH THE COMPLAINANT HAS RIGHTS FOR THE FOLLOWING REASONS:

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- (i) It was submitted that the Respondent's registration of the domain name "sodexo-sodexo-zetaapps.in" is identical to the famous and registered trademark SODEXO of the Complainant.
- (ii) It was submitted that the domain name of the Respondent is visually, conceptually and phonetically identical to the Complainant's famous and highly distinctive trademark **SODEXO**.
- (iii) It was submitted that the registration of the domain name is likely to falsely lead the public into believing that the Respondent and the website to which the domain name directs is sponsored by or affiliated to or associated with the Complainant, and will lead to confusion and deception.
- (iv) It was submitted that the Respondent's registration and use of the domain name is a clear case of cyber-squatting with the intention of taking advantage of the Complainant's substantial reputation and its prominent presence on the internet in order to deceive the public into believing that there is a trade connection between the Complainant and Respondent.

E. THE RESPONDENT SHOULD BE CONSIDERED AS HAVING NO RIGHT OR LEGITIMATE INTEREST IN RESPECT OF THE DOMAIN NAME "SODEXO-SODEXO-ZETAAPPS.IN" THAT IS SUBJECT OF THE COMPLAINT, FOR FOLLOWING REASONS:

It was submitted that the Complainant has prior rights in the SODEXO trademark/tradename, which precede the Respondent's registration of the disputed domain name.

It was submitted that the Complainant's trademark/tradename **SODEXO** are present in many countries around the globe including in India and therefore the disputed domain name will cause confusion and amount to passing-off as well infringement.

It was submitted that the disputed domain name used by the Respondent leads to various third-party websites. It was submitted that the main motive of the

Wheeler v. WMA

disputed domain name is to attract people with the tradename/trademark **SODEXO** and then divert them to various third-party websites. It was submitted that the increasing the traffic on these websites. The printouts confirming the said contentions have been filed as **Annexure 13.**

It was submitted that the Respondent's website has done nothing to disclaim any relationship with the Complainant. It was submitted that it has done nothing to dispel any possible suggestion that it might be the trademark owner, or that the website might be the official site of, or authorized by, the Complainant.

It was submitted that the Respondent's use of the trademark/tradename **SODEXO** as his domain name does not satisfy the test for bona fide use.

It was submitted that there is no license, consent or other right by which the Respondent would have been entitled to register or use identical domain name as that of the Complainant's trademark/tradename **SODEXO**.

It was submitted that the use of the disputed domain name "sodexo-sodexo-zetaapps.in" by the Respondent is solely with mala fide intentions in order to deceive people browsing on the Internet into believing that the disputed domain name is associated with the Complainant whereas such association does not exist.

It was submitted that there is no doubt that the Respondent is aware that the tradename/trademark **SODEXO** corresponds to excellent quality of goods and services and disputed domain name has been registered to ride on the goodwill enjoyed by the trademark of the Complainant.

F. THE DOMAIN NAME SHOULD BE CONSIDERED AS HAVING BEEN REGISTERED AND USED IN BAD FAITH, FOR THE FOLLOWING REASONS:

It was submitted that the obvious bad faith of the Respondent results from the following elements:

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- It was submitted that the Respondent has no prior right and no authorization to use the trademark/tradename SODEXO.
- It was submitted that the Respondent's awareness that the trademark/tradename SODEXO is popular and famous world over including in India. It was submitted that the Complainant has been using the trademark/tradename SODEXO extensively and continuously since the year 2008 world over and also in India. It was submitted that the Respondent cannot claim to be unaware of the said trademark/tradename.
- It was submitted that the use of the domain name with.IN identical to the trademark/tradename SODEXO of the Complainant will mislead the Internet users and make them believe that it is the related website of the Complainant.
- It was submitted that the disputed domain name used by the Respondent leads to various third-party websites. It was submitted that the main motive of the disputed domain name is to attract people with the tradename/trademark SODEXO and then divert them to various third- party websites. Thereby, increasing the traffic on these websites.

VI. PARTIES CONTENTIONS:

A. COMPLAINANT

- a. The Disputed Domain Name sodexo-sodexo-zetaapps.in is identical and/or confusingly similar to the well-known SODEXO trademarks of the Complainant as well as the Complainant's registered domain names.
- b. The Respondent's Disputed Domain Name sodexo-sodexo-zetaapps.in will lead to confusion amongst consumers.
- c. The Disputed Domain Name sodexo-sodexo-zetaapps.in will give to the consumers the impression that the Respondent is associated with the Complainant in some form or the other.

Usheta vohra

- d. The Respondent has no legitimate interest in the Disputed Domain Name sodexo-sodexo-zetaapps.in;
- e. The adoption / use of the Complainant's well-known registered mark SODEXO as part of the Disputed Domain Name or in any manner whatsoever results in the infringement and passing off of the rights of the Complainant in its SODEXO trademarks.
- f. The Respondent has incorporated the well-known mark SODEXO of the Complainant in the Disputed Domain Name sodexo-sodexo-zetaapps.in only with the aim of making illegal gains from the goodwill and reputation of the Complainant.
- g. The SODEXO trademark is a well-known mark and is associated with the Complainant alone and none else.
- h. The use of SODEXO trademark in the Disputed Domain Name is without due cause and has been done to gain benefit from the goodwill of the same.
- i. The Disputed Domain Name sodexo-sodexo-zetaapps.in has been registered in bad faith with dishonest intention only to mislead the innocent public.

B. RESPONDENT

The Respondent did not file its reply to contest the claims of the Complainant and thus this award is based on pleadings and documents filed by the Complainant only.

VII. DISCUSSION AND FINDINGS:

The INDRP (.IN Domain Name Dispute Resolution Policy), adopted by NIXI, provides that a domain name owner must transfer its domain name registration to a complainant/trademark owner if:

Sheetal Vohra


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

I have gone through the pleadings i.e., the Complaint filed by Complainant. I have also gone through the documents filed by the Complainant with the Complaint. Further, I have gone through case laws relied upon by the Complainant. After giving due consideration to pleadings, documents, facts and legally settled principles, I hold that in the present case all three requirements for transfer of the disputed domain name have been met. I further hold that the disputed domain name of the Respondent is visually, phonetically, structurally and conceptually identical to the trademark of the Complainant and the Disputed Domain name contains the SODEXO trademark of the Complainant in its entirety. The disputed domain name of the Respondent is sodexo-sodexo-zetaapps.in and I am of the considered view that the Respondent has no rights over disputed domain name sodexo-sodexo-zetaapps.in. Further, the Complainant is prior adopter, prior user and registered proprietor of the well-known SODEXO trademarks and the domain names with the word SODEXO, and has absolute and sole rights. Consequently, I hold that the Respondent does not have any rights or legitimate interest over the Disputed Domain Name sodexo-sodexo-zetaapps.in 741 and hence the same needs to be transferred to the Complainant. I hold that the company name / trade name / trade mark / domain name SODEXO is exclusively and solely associated and recognized with the Complainant alone. I hold that due to such exclusive association of the SODEXO word and the variations thereof with the Complainant, and also considering the prior registered domain name of the Complainant containing the SODEXO marks, the Complainant alone has the right to utilize the SODEXO trademark as a domain name registered with the .IN Registry. I hold that the Respondent is not entitled to register the disputed domain name as the Respondent has failed to establish any right over the SODEXO mark and the same is associated only with the Complainant.



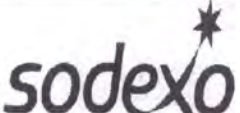
A. THE COMPLAINANT'S TRADEMARK REGISTRATIONS

Shruti Sharma

I hold that the Complainant has successfully demonstrated by way of its Complaints have various international registrations for the **SODEXO** trademark world over. I find that that the Complainant's EUTM registration for the mark

 under no. 6104657 stands registered since June 27, 2008 in classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45.

I find that the In India, the Complainant is the proprietor of the following trademarks:

Trademark	Class	Trademark No.	Status
 QUALITY OF LIFE SERVICES	9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45	2480740	Registered
	36, 37	1236741	Registered
	9, 16, 35, 36, 37, 38, 39, 40, 41, 42	1635770	Registered

I note that trademark registration no. 1236741 dated back to 15/09/2003. I find that the above-mentioned registrations are valid, subsisting and in full legal force. I find that the registrations vest in the Complainant the exclusive right to use the mark **SODEXO**.

B. The Complainant's Domain Name Registrations

I find that the Besides the Complainant's main domain name registration <https://www.sodexo.com/home.html>, the Complainant has country specific domain names including one for India i.e. <https://www.sodexo.in/>.

C. The Complainant's SODEXO WIPO decisions

Shelton who

I find that the Complainant has been very vigilant in taking appropriate action against identical/similar domain names. It is pertinent to note here that in a decision dated August 21, 2020, under n° D2020-1580, the WIPO Arbitration and Mediation Center recognized the well-known character of the tradename/trademark **SODEXO**. I find that the learned Tribunal ordered the transfer of the disputed domain name “sodexobenefiscdnter.com”, which was connected to a commercial French website selling ready-made clothes and beauty products. In its decision the learned Tribunal observed:

“I find that the Complainant’s business is truly international and of such a size and scope that it has developed a very substantial reputation and goodwill as has been recognized by previous UDRP panels”

I find that there have been many such orders by WIPO Arbitration and Mediation Center and various other registries including

- *Sodexo v. Contact Privacy Inc. Customer 1246780534 / Chivers Michael, WIPO CaseNo. D2020-0865,*
- *Sodexo v. WhoisGuard Protected, WhoisGuard, Inc. / New World, WIPO Case No.DCO2020-0021,*
- *Sodexo v. Contact Privacy Inc. Customer 1247228940 / James Lehman, WIPO CaseNo. D2020-1281,*
- *Sodexo v. Registration Private, Domains By Proxy, LLC / Krissa Pucket, WIPO CaseNo. D2020-1315*
- *Sodexo v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico, WIPO Case No. D2020-1580.*

D. THE DOMAIN NAME “SODEXO-SODEXO-ZETAAPPS.IN” IS IDENTICAL TO THE SODEXO TRADENAME/TRADEMARK IN WHICH THE COMPLAINANT HAS RIGHTS FOR THE FOLLOWING REASONS:

I find that the Respondent’s registration of the disputed domain name “sodexo-sodexo-zetaapps.in” is identical to the famous and registered trademark SODEXO of the Complainant.

Shirley White

I find that the domain name of the Respondent is visually, conceptually and phonetically identical to the Complainant's famous and highly distinctive trademark **SODEXO**.

I find that the registration of the domain name is likely to falsely lead the public into believing that the Respondent and the website to which the domain name directs is sponsored by or affiliated to or associated with the Complainant, and will lead to confusion and deception.

I find that the Respondent's registration and use of the domain name is a clear case of cyber-squatting with the intention of taking advantage of the Complainant's substantial reputation and its prominent presence on the internet in order to deceive the public into believing that there is a trade connection between the Complainant and Respondent.

E. THE RESPONDENT SHOULD BE CONSIDERED AS HAVING NO RIGHT OR LEGITIMATE INTEREST IN RESPECT OF THE DOMAIN NAME "SODEXO-SODEXO-ZETAAPPS.IN" THAT IS SUBJECT OF THE COMPLAINT, FOR FOLLOWING REASONS:

I find that the Complaint has prior rights in the SODEXO trademark/tradename, which precede the Respondent's registration of the disputed domain name.

I find that the Complaint's trademark/tradename **SODEXO** are present in many countries around the globe including in India and therefore the disputed domain name will cause confusion and amount to passing-off as well infringement.

I am in agreement with the Complainant that the main motive of the disputed domain name is to attract people with the tradename/trademark **SODEXO** and then divert them to various third-party websites, thus increasing the traffic on these websites.

Wheta vha

I find that the Respondent's website has done nothing to disclaim any relationship with the Complainant. I am in agreement with the Complainant's submissions that the Respondent and its website has done nothing to dispel any possible suggestion that it might be the trademark owner, or that the website might be the official site of, or authorized by, the Complainant.

I find that the Respondent's use of the trademark/tradename **SODEXO** as his domain name does not satisfy the test for bona fide use.

I find that there is no license, consent or other right by which the Respondent would have been entitled to register or use identical domain name as that of the Complainant's trademark/tradename **SODEXO**.

I find that the use of the disputed domain name "sodexo-sodexo-zetaapps.in" by the Respondent is solely with malafide intentions in order to deceive people browsing on the internet into believing that the disputed domain name is associated with the Complainant whereas such association does not exist.

I find that there is no doubt that the Respondent is aware that the tradename/trademark **SODEXO** corresponds to excellent quality of goods and services and disputed domain name has been registered to ride on the goodwill enjoyed by the trademark of the Complainant.

F. THE DOMAIN NAME SHOULD BE CONSIDERED AS HAVING BEEN REGISTERED AND USED IN BAD FAITH, FOR THE FOLLOWING REASONS:

I find that the obvious bad faith of the Respondent results from the following elements:

- I find that the Respondent has no prior right and no authorization to use the trademark/tradename **SODEXO**.
- I find that the Respondent's awareness that the trademark/tradename **SODEXO** is popular and famous world over including in India. I find that the

Shubha Wadia

Complainant has been using the trademark/tradename SODEXO extensively and continuously since the year 2008 world over and also in India. I find that the Respondent cannot claim to be unaware of the said trademark/tradename.

- I find that the use of the domain name with.IN identical to the trademark/tradename SODEXO of the Complainant will mislead the Internet users and make them believe that it is the related website of the Complainant.
- I find that the main motive of the disputed domain name is to attract people with the tradename/trademark SODEXO and then divert them to various third- party websites. Thereby, increasing the traffic on these websites.

In view of all the above facts and well-known legal precedents, I find and hold as under:

- i. That the disputed domain name of the Respondent sodexo-sodexo-zetaapps.in is identical and confusingly similar to the Complainant's SODEXO trademarks, domain names and company name.
- ii. That the use of the disputed domain name sodexo-sodexo-zetaapps.in is likely to lead to enormous confusion *qua* its origin due to the use of the Complainant's trade mark SODEXO as a whole in the disputed domain name being phonetically, visually and structurally identical to the Complainant's trade mark SODEXO.
- iii. That the disputed domain name was registered in bad faith by the Respondent.
- iv. That the disputed domain name is strictly identical to the Complainant's distinctive mark, consumers would certainly mistakenly assume that a website / disputed domain name sodexo-sodexo-zetaapps.in is operated or endorsed by the Complainant, when such would not be the case.
- v. That the Respondent has deliberately attempted to create a false impression in the minds of the consumers that the Respondent is somehow associated with or endorsed by the Complainant to ride on the goodwill and reputation associated with the Complainant and to unjustly enrich from the same.
- vi. That the Respondent has no rights or legitimate interests in respect of the disputed domain name.
- vii. That there is also an imminent likelihood of damage which may be caused to the public at large and also cause irreparable damage to the Complainant's reputation

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and goodwill through the disputed domain name.

- viii. That the Respondent does not have any affiliation or connection with the Complainant and/or its goods / services under the name/mark SODEXO and consequently it is inconceivable that the Respondent's adoption of the name sodexo-sodexo-zetaapps.in which is identical to the Complainant's 'SODEXO' trademarks and domain names with SODEXO can be seen as merely coincidental.

VIII. DECISION

- a) In view of the above facts and circumstances, it is clear that the Complainant has succeeded in its complaint.
- b) That the .IN Registry of NIXI is hereby directed to transfer the registration of Domain name/URL of the Respondent sodexo-sodexo-zetaapps.in to the Complainant;
- c) In the facts and circumstances of the case no cost or penalty is imposed upon the Respondent. The Award is accordingly passed on this 22nd day of February 2023.



Dr. Sheetal Vohra

(PHD Law)

Sole Arbitrator

K-62, Jangpura Extension

New Delhi-110014

DATE: 22/02/2023

PLACE: DELHI