

## **ADMINISTRATIVE PANEL DECISION**

Sodexo v. DNS Admin, Buntai LTD

Case No. D2023-2800

### **1. The Parties**

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

The Respondent is DNS Admin, Buntai LTD, Switzerland.

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

The disputed domain name <sodexomayway.com> 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 June 30, 2023. On June 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 3, 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 July 3, 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 July 3, 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”).

In accordance with paragraphs 2 and 4 of the Rules, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on July 4, 2023. In accordance with paragraph 5 of the Rules, the due date for Response was July 24, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 26, 2023.

The Center appointed Yuji Yamaguchi as the sole panelist in this matter on August 4, 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 paragraph 7 of the Rules.

#### **4. Factual Background**

The Complainant, which was founded in 1966, is one of the largest companies in the world specialized in foodservices and facilities management, with 422,000 employees serving daily 100 million consumers in 53 countries. The Complainant provides an application for residents and guests of FIFO camps and villages called "MyWay by Sodexo".

The Complainant promoted its business under the SODEXHO mark and trade name from 1966 to 2008 and simplified the spelling of its mark and name to SODEXO in 2008. The Complainant owns the numerous registered SODEXO marks (the "SODEXO Mark") including international trademark registration Nos. 964615 (registered on January 8, 2008) and 1240316 (registered on October 23, 2014) and European Union Trade Mark registration Nos. 008346462 (registered on February 1, 2010) and 006104657 (registered on June 27, 2008).

The Complainant's group promotes its activities under the following domain names corresponding to and/or containing SODEXO, such as <sodexo.com>, <sodexoprestige.co.uk>, <sodexo.fr>, <sodexoca.com> and <sodexousa.com>.

The dispute domain name was registered on June 6, 2023, and resolved to a website displaying Pay-Per-Click ("PPC") links to the Complainant's competitors.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant's contentions may be summarized as follows:

The disputed domain name is composed of the SODEXO Mark associated with the element "may" and the English word "way", which correspond to a misspelling of the expression "my way". The addition of the expression "m(a)y way" is inoperative to distinguish it from the Complainant's SODEXO Mark. On the contrary, the risk of confusion or association with the SODEXO Mark is stronger as the Complainant uses the expression "MyWay by Sodexo" for an application.

The Respondent has no rights nor legitimate interests in the disputed domain name as he has no rights on SODEXO as corporate name, trade name, shop sign, mark or domain name. The Respondent was not commonly known by the disputed domain name prior to the adoption and use of the SODEXO Mark by the Complainant. Moreover, 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 to register and use the disputed domain name.

The SODEXO Mark is purely fanciful, and nobody could legitimately choose this word or any variation thereof, unless seeking to create an association with the Complainant's activities and SODEXO Mark. Given the well-known character and reputation of the SODEXO Mark, the Respondent knew its existence when he registered the disputed domain name, so that he perfectly knew that he had no rights or legitimate interests in the disputed domain name and that he cannot lawfully use it. The Respondent is using the disputed domain name by exploiting the confusion with the well-known SODEXO Mark to attract Internet users and to incite them to click on the Complainant's competitors' commercial links solely for the purpose of achieving commercial gain. Moreover, the Internet users who have a legitimate interest in the SODEXO group could have been then exposed to these parking services proposing advertising links to websites of the Complainant's competitors. It may not only be confusing for the consumers but can also create a dilution of the SODEXO Mark.

## B. Respondent

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

## 6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant must assert and prove the following three elements are present:

- (i) the disputed 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 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 disputed domain name consists of the Complainant's SODEXO Mark in its entirety and the string of letters "mayway" along with the generic Top-Level Domain ("gTLD") ".com".

As noted in section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element in paragraph 4(a) of the Policy. In this case, the addition of the string of letters "mayway" in the disputed domain name cannot prevent a finding of confusing similarity between the disputed domain name and the Complainant's SODEXO Mark since the Complainant's SODEXO Mark is sufficiently recognizable in the disputed domain name (see *Sodexo v. Domain Administrator*, WIPO Case No. [D2021-2937](#)) and the addition of "mayway" does not significantly affect the appearance or pronunciation of the disputed domain name (see *Sodexo v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2020-2217](#)).

The gTLD ".com" may be disregarded for the purpose of assessment of confusing similarity under the first element in paragraph 4(a) of the Policy. See section 1.11.1 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's SODEXO Mark.

### B. Rights or Legitimate Interests

As the Complainant asserts, the Respondent has no affiliation, association, sponsorship or connection with the Complainant. The Complainant has also not granted any authorization, license or permission to the Respondent to register and use the disputed domain name. There is no evidence that the Respondent is commonly known by the disputed domain name.

Further, the disputed domain name resolves to a parking page to connect to the Complainant's competitors' websites for personal and home services. Such PPC links on the parking page compete with or capitalize on the reputation and goodwill of the Complainant's SODEXO Mark or otherwise mislead Internet users, and hence the disputed domain name is not used by the Respondent in connection with a *bona fide* offering of goods or services pursuant to paragraph 4(c)(i) of the Policy. See section 2.9 of the [WIPO Overview 3.0](#).

Furthermore, the Panel notes that the addition of the term "mayway" to the Complainant's SODEXO Mark may be interpreted as a misspelling of the Complainant's application's name "MyWay". The nature of the disputed domain name carries a risk of Internet user confusion (that seemingly being the Respondent's aim),

and possibly even in the case of an unsuspecting Internet user, of implied affiliation with the Complainant as it may mistakenly be seen as effectively impersonating or suggesting some connection to the Complainant, and accordingly cannot constitute a fair use in these circumstances. See section 2.5.1 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds that the Complainant has made out a *prima facie* case that the Respondent lacks rights or legitimate interests, the burden of production on the second element in paragraph 4(a) of the Policy shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent failed to submit any response in this proceeding and no evidence of the existence of any rights or legitimate interests has been presented before the Panel.

As a result, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

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

Although the Complainant changed its brand from SODEXHO to SODEXO in 2008, the Complainant's SODEXO Mark is widely known for the Complainant's worldwide business activities. Considering the number of downloading the mobile application "MyWay by Sodexo", the application's name "MyWay" is also well known in connection with the Complainant's service. Thus, the Respondent must have had knowledge about the Complainant's SODEXO Mark as well as the application's name "MyWay" when registering the disputed domain name and intended to take advantage of the fame and reputation of the Complainant's SODEXO Mark (see *Sodexo v. 李厚昌 (Li Hou Chang)*, WIPO Case No. [DCO2021-0026](#); see also *Sodexo v. 钱梦琳 (Qian Meng Dan)*, WIPO Case No. [D2021-3518](#); and *Sodexo v. Li Jiang*, WIPO Case No. [D2022-3852](#)).

The Respondent's registration of the disputed domain name that contains misspelling of the Complainant's application's name in an effort to take advantage of a typographical error and its use of the disputed domain name to resolve to landing pages with PPC links support a finding of bad faith registration and use (see *SODEXO v. Super Privacy Service LTD c/o Dynadot / Zhichao*, WIPO Case No. [D2020-1762](#)). Such conduct of using a domain name, to attract Internet users for commercial gain, would fall squarely within the meaning of paragraph 4(b)(iv) of the Policy. Particularly with respect to "automatically" generated PPC links, the Respondent cannot disclaim responsibility for content appearing on the website associated with its disputed domain name. See section 3.5 of the [WIPO Overview 3.0](#).

Since the Respondent is considered to have attempted to confuse Internet users and trade off the goodwill of the SODEXO Mark with such PPC links to the Complainant's competitors (see *Sodexo v. Daniela Ortiz*, WIPO Case No. [D2021-0628](#); see also *SODEXO v. Zhichao Yang (杨智超)*, WIPO Case No. [D2020-2286](#)), the Panel concludes that the disputed domain name has been registered and used by the Respondent in bad faith and the Complainant has proved the third element in paragraph 4(a) 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 <sodexomayway.com> be transferred to the Complainant.

/Yuji Yamaguchi/

**Yuji Yamaguchi**

Sole Panelist

Date: August 18, 2023