

## ADMINISTRATIVE PANEL DECISION

Sodexo v. Anngs Uyenw  
Case No. D2023-4707

### 1. The Parties

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

The Respondent is Anngs Uyenw, Philippines.<sup>1</sup>

### 2. The Domain Name and Registrar

The disputed domain name <sodexho-uk.com> (the “Domain Name”) is registered with Network Solutions, LLC (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 13, 2023. On November 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 16, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 December 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 31, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 9, 2024.

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<sup>1</sup> On November 28, 2023, the Center sent an email communication to the Registrar concerning a change in the registrant details in the publicly-available WhoIs. On December 2, 2023, the Registrar confirmed that the disputed domain name had expired and that it had been moved into an “in house corporate account” for purposes of maintaining the lock for this UDRP proceeding. On December 11, 2023, the Center informed the Complainant of the change in the publicly-available WhoIs and the Registrar’s explanation. In view of the Registrar’s explanation, the Panel will treat “Anngs Uyenw” as the Respondent for purposes of this Decision and any references to the “Respondent” are to “Anngs Uyenw”.

The Center appointed Nicholas Smith as the sole panelist in this matter on January 16, 2024. 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 food services and facilities management company, founded in 1966 in France. The Complainant now has 422,000 employees serving 100 million consumers in 75 countries. In the 2022 fiscal year, the Complainant had revenues of EUR 21.1 billion.

The Complainant is the owner of a number of trade mark registrations consisting of the word “sodexo” and “sodexho” including the word mark SODEXO, which was first registered on February 1, 2010 (European Union Trade Mark registration number 008346462), and the word mark SODEXHO, registered on March 1, 1974 (International trademark registration number 404896) (collectively referred to as the “SODEXO Mark”).

The Domain Name was registered on September 27, 2023. At the date the Complaint was filed, the Domain Name was inactive; however, while drafting the Decision, the Domain Name resolved to a website offering pay-per-click advertisements relating to jobs in the food services industry.

#### **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 Domain Name.

Notably, the Complainant contends that:

- a) It is the owner of the SODEXO Mark, having registered the SODEXO Mark in the European Union. The Domain Name is confusingly similar to the SODEXO Mark as it reproduces the SODEXO Mark in its entirety and adds the geographical abbreviation “uk” and a hyphen.
- b) There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the SODEXO Mark. The Respondent is not commonly known by the SODEXO Mark, nor does it use the Domain Name for a *bona fide* purpose or legitimate noncommercial purpose. Indeed, the Domain Name does not resolve to an active webpage at all.
- c) The Domain Name was registered and is being used in bad faith. There is no plausible circumstance under which the Respondent could legitimately use the Domain Name, which combines the SODEXO Mark and the term “-uk”, other than in bad faith. Given the reputation of the highly distinctive SODEXO Mark, the Respondent must have been aware of the Complainant’s mark at the time of registration. In such circumstances, the Respondent’s passive holding of the Domain Name amounts to use of the Domain Name in bad faith.

##### **B. Respondent**

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

## 6. Discussion and Findings

### 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 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 Domain Name. Accordingly, the Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, being "-uk", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the 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 Domain Name.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made 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. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.
- the Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.
- the Respondent is not 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. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.

- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Name.

The prior inactive state of the Domain Name does not confer any rights or legitimate interests to the Respondent given the above considerations, that the inactive website clearly does not represent any *bona fide* offering, and the composition of the Domain Name, consisting of the distinctive SODEXO Mark, carries a risk of implied affiliation.

The current use of the Domain Name for a parking page with pay-per-click links unrelated to a dictionary meaning of the Domain Name is not a *bona fide* offering of goods or services nor legitimate noncommercial or fair use.

The Panel notes the statements in the [WIPO Overview 3.0](#) on the question of whether “parked” pages comprising pay-per-click links support the respondent’s rights or legitimate interests. Section 2.9 of the [WIPO Overview 3.0](#) notes that:

“Applying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC [pay-per-click] links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users. Panels have recognized that the use of a domain name to host a page comprising PPC links would be permissible – and therefore consistent with respondent rights or legitimate interests under the UDRP – where the domain name consists of an actual dictionary word(s) or phrase and is used to host PPC links genuinely related to the dictionary meaning of the word(s) or phrase comprising the domain name, and not to trade off the complainant’s (or its competitor’s) trademark.”

In the present case, the Respondent’s current use of the confusingly similar Domain Name to host a parking page with pay-per-click links referring to jobs providing services in the hospitality industry (the services offered by the Complainant) does not provide the Respondent with rights or legitimate interests in the Domain Name as the advertisements do not correspond to any non-trademark meaning of the words comprising the Domain Name. Rather, such links expressly relate to the Complainant’s services and thus reflect the Respondent’s attempt to capitalize on the Complainant’s reputation therein.

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.

The Panel considers that the record of this case reflects that 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. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4. This amounts to registration and use of the Domain Name in bad faith under the Policy.

The current use of the Domain Name, which wholly incorporates the coined and well-known SODEXO Mark, resolves to a page offering pay-per-click links for which the Respondent most likely would receive some commercial gain. In these circumstances where the Respondent has offered no plausible explanation for the registration of the Domain Name, the Panel finds that the Respondent was most likely aware of the Complainant at the time of registration and is using the Domain Name to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the SODEXO Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website.

Concerning the prior passive holding of the Domain Name, panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the Domain Name does not prevent a finding of bad faith in the circumstances of this proceeding. 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 reputation of the Complainant's SODEXO Mark, and the composition of the Domain Name, and finds that in the circumstances of this case the passive holding of the Domain Name does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

## **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 Domain Name <sodexho-uk.com> be transferred to the Complainant.

*/Nicholas Smith/*

**Nicholas Smith**

Sole Panelist

Date: January 18, 2024