

## **ADMINISTRATIVE PANEL DECISION**

Sodexo v. B SINGH

Case No. D2024-0137

### **1. The Parties**

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

The Respondent is B SINGH, United Kingdom.

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

The disputed domain name <ascot-sodexo.com> is registered with IONOS SE (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 12, 2024. On January 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 16, 2024, the Registrar transmitted by email to the Center its verification response disclosing the 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 January 29, 2024, 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 February 2, 2024.

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 February 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 27, 2024. The Respondent sent an email communication to the Center on February 5, 2024. Pursuant to paragraph 6 of the Rules, on February 28, 2024, the Center informed the Parties that it would proceed with the panel appointment process.

The Center appointed Keiji Kondo as the sole panelist in this matter on March 5, 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**

Founded in 1966, the Complainant is one of the largest companies in the world specialized in food services and facilities management, with 430 000 employees serving daily 80 million consumers in 45 countries. For fiscal year 2023, consolidated revenues reached EUR 22,6 billion which represent by region: 46% North America, 36% Europe, and 18% for the rest of the world.

The Complainant owns among others the following trademark registrations for SODEXO:

International trademark registration No. 1240316 registered on October 23, 2014 for goods and services in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45, protected in the United Kingdom and other designated countries; and

European Union trade mark registration registered on February 1, 2010, registered under No. 008346462, for goods and services in international classes 9, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45.

The Complainant also owns many trademark registrations covering many countries for its logo consisting of "sodexo" and a star mark.

The disputed domain name was registered on December 10, 2023 and is currently inactive. At the time of filing the Complaint, the disputed domain resolved to the Registrar parking page.

#### **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 <ascot-sodexo.com> is composed of the identical sign SODEXO associated with the descriptive geographic element "ascot". Ascot is well known around the world as an English town whose racecourse hosts a prestigious annual horse race. Therefore, the disputed domain name is understood as referring to the Complainant's activities at Ascot.

The addition of the term "ascot" in the disputed domain name is obviously not sufficient to distinguish it from the Complainant's marks.

The company SODEXO is widely established in the United Kingdom where the Respondent is apparently located. The SODEXO trademark has a strong reputation and is widely known all over the world.

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 or by any subsidiary or affiliated company to register the concerned domain name and to use it.

The trademark SODEXO is purely fanciful and nobody could legitimately choose this word or any variation thereof (especially associated with the element ASCOT), unless seeking to create an association with the Complainant's activities and the trademark SODEXO. Given the well-known character and reputation of the SODEXO trademark, the Respondent obviously knew of 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 Complainant contends that the registration of the disputed domain name and its passive holding, likely in the aim of fraudulent use, are for the purpose of commercial gain and then constitute registration and use in bad faith.

## **B. Respondent**

The Respondent did not formally reply to the Complainant's contentions. However, on February 5, 2024, the Respondent sent an informal communication to the Center offering the disputed domain name for sale for a price of GBP 10.000.

## **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 disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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 mark is recognizable 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.

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

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 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.

In the present case, the Panel notes that the Respondent sent an email communication to the Center on February 5, 2024, saying, “Because we have legally registered the domain name ascot-sodexo.com, I am willing to sell the domain to complaining party for a price of £10000. Please let me know if you are willing to pay £10000 for the transfer of the domain name ascot-sodexo.com.” The Panel also notes that the disputed domain name is currently inactive.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

As per the record, the disputed domain name resolved to a Registrar parking page at the time of filing the Complaint and currently resolves to an inactive webpage. 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 disputed 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 distinctiveness or reputation of the Complainant’s trademark, and the composition of the disputed domain name, and 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.

In the present case, the Panel further notes that the disputed domain name consists of “sodexo”, the Complainant’s trademark, and the additional term “ascot”, the name of an English town in the United Kingdom where the Complainant provides catering services at Ascot Racecourse, and the Respondent has an address in the United Kingdom. Therefore, the Panel finds that the Respondent targeted the Complainant at the time of registration, even if the Respondent, at the time of registration, might not have registered the disputed domain name primarily for the purpose of selling it to the Complainant. Consequently, in these circumstances, the Respondent offering the disputed domain name for sale without actively using it further evidences the registration and use of the disputed domain name in bad faith.

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 <ascot-sodexo.com> be transferred to the Complainant.

*/Keiji Kondo/*

**Keiji Kondo**

Sole Panelist

Date: March 19, 2024