

## ADMINISTRATIVE PANEL DECISION

Sodexo v. 石磊 (Lei Shi)

Case No. D2024-3214

### 1. The Parties

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

The Respondent is 石磊 (Lei Shi), China.

### 2. The Domain Name and Registrar

The disputed domain name <sodexo-career.com> (the “Disputed Domain Name”) is registered with Cloud Yuqu LLC (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on August 6, 2024. On August 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 7, 2024, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 7, 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 in English on August 8, 2024.

On August 7, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the Disputed Domain Name is Chinese. On August 8, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in Chinese and English, and the proceedings commenced on August 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 2, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 12, 2024.

The Center appointed Rosita Li as the sole panelist in this matter on September 23, 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 French company specializing in food services and facilities management since 1966, with 430,000 employees serving daily 80 million consumers in 45 countries worldwide.

Since 2008, the Complainant promoted its business under the SODEXO trademark and trade name. The Complainant is the owner of a number of registrations in jurisdictions around the world, including but not limited to:

- 1) International Trademark Registration No. 1240316 for SODEXO, registered on October 23, 2014; and
- 2) European Union trademark registration No. 008346462 for SODEXO, registered on February 1, 2010.

(collectively, the "SODEXO Marks").

The Complainant owns a number of domain names featuring the SODEXO Marks, including but not limited to <sodexo.com>, and its sub-domain names <uk.sodexo.com> and <cn.sodexo.com>.

The Complainant's SODEXO Marks have been continuously and extensively used and registered worldwide, possessing strong reputation and are widely known worldwide. This has been recognized in a number of prior UDRP panel decisions under the Policy.

The Disputed Domain Name was registered on April 6, 2024. At the time of filing of the Complaint, the Disputed Domain Name was used as a parking page displaying pay-per-click links, inter alia, connecting to websites which are purported to be the Complainant's competitors. Further, sub-domain names <zbgktine.sodexo-career.com>, <rwnphyae.sodexo-career.com> and <xhvgykuc.sodexo-career.com> point to other parking pages also connecting to websites which are purported to be the Complainant's competitors.

#### **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:

(i) The Disputed Domain Name is identical or confusingly similar to trademarks in which the Complainant has prior rights. The Complainant contends that:

- The Disputed Domain Name incorporates the Complainant's registered SODEXO Mark in its entirety with the addition of the English non-distinctive element "career", which is internationally understood by consumers;
- The expression "SODEXO career" refers to an official website of the Complainant offering jobs;

- The addition of the word “career” in the Disputed Domain Name is inoperative to distinguish it from the Complainant’s SODEXO mark in the Disputed Domain Name, the mark SODEXO remains to be dominant and keeps its individuality and attractive character in the Disputed Domain Name; and
- The addition of a generic or descriptive term to a mark will not alter the fact that the Disputed Domain Name is confusingly similar to the Complainant’s SODEXO mark. The identical reproduction of the mark SODEXO will lead the public to believe that the Disputed Domain Name is an official website of the Complainant proposing job ads.

(ii) The Respondent has no rights or legitimate interests in the Disputed Domain Name. The Complainant contends that:

- The Respondent has no rights on “SODEXO” as corporate name, trade name, shop sign, mark or domain name that would be prior to the Complainant’s rights on SODEXO;
- The Respondent was not commonly known by the Disputed Domain Name prior to the adoption and use by the Complainant of the corporate name, business name and the SODEXO mark; and
- The Respondent does not have any affiliation, association, sponsorship or connection with the Complainant and has not been authorised, licensed or otherwise permitted by the Complainant or by any subsidiary or affiliated company to register the Disputed Domain Name and to use it.

(iii) The Disputed Domain Name was registered and is being used in bad faith. The Complainant contends that:

- The sign SODEXO is purely fanciful and no one could legitimately choose this word or any variation unless seeking to create an association with the Complainant’s activities and the SODEXO mark;
- The Respondent knew the existence of the SODEXO mark when the Respondent registered the Disputed Domain Name given the well-known character and the reputation of the SODEXO mark, that the Respondent perfectly knew that it has no rights or legitimate interests in the Disputed Domain Name and the Respondent 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 commercial links of the Complainant’s competitors;
- The Respondent has an intentional attempt to attract Internet users to the sites of the Complainant’s competitors by creating a likelihood of confusion with the well-known SODEXO mark for commercial gain;
- The unauthorised use and registration of the Disputed Domain Name by the Respondent to attract and redirect Internet users to websites of the Complainant’s competitors are solely for the purpose of achieving commercial gain which then constitute bad faith registration and use;
- The Internet users who have a legitimate interest in the SODEXO group could have been then exposed to the parking services proposing advertising links to websites of the Complainant’s competitors, which confuses consumers and creates dilution of the SODEXO mark; and
- The unauthorised registration of the Disputed Domain Name by the Respondent is likely in the aim of fraudulent uses for commercial gain.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy provides that a complainant must satisfy each of the following three elements in a complaint:

- (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.

### **6.1. Language of the Proceeding**

The language of the Registration Agreement for the Disputed Domain Name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that:

- 1) The Complainant is not able to communicate in Chinese. If the Complainant should submit all documents in Chinese, the arbitration proceedings will be unduly delayed and the Complainant would have to incur substantial expenses for translation;
- 2) The Respondent registered the Disputed Domain Name in Latin script rather than Chinese characters; and
- 3) The element “career” in the Disputed Domain Name is an English word.

The Respondent did not make any submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties’ ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

### **6.2. Substantive Issues**

#### **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 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 entirety of the SODEXO Mark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the SODEXO Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, in this case, “-career”, may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Disputed Domain Name and the SODEXO Marks 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.

There has been no evidence presented to show that the Respondent has been commonly known by the Disputed Domain Name. The Panel accepts that the Complainant has not granted the Respondent any authorization, license, or permission to register or utilize the Disputed Domain Name, and that there is no affiliation, association, sponsorship, or connection between the Respondent and the Complainant.

In light of the above, the Panel concludes that the Respondent’s failure to provide any substantial evidence to refute the Complainant’s prima facie case underscores the lack of rights or legitimate interests held by the Respondent in the Disputed Domain Name.

Furthermore, applying paragraph 4(c) of the Policy, past panels have found that the use of a domain name to host a parked page comprising pay-per-click (PPC) 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. The Complainant submitted screenshots of the Disputed Domain Name website showing that the page has been used as a parking page which leads to other websites relating to offering of bar and restaurant services. It is apparent that the websites were offering services that compete with the Complainant’s business or otherwise mislead Internet users to think that the links are related to the Complainant. The Panel considers that such use of the Disputed Domain Name comprising PPC links is not the kind permissible under the Policy. Given this, the Panel concludes that the Respondent did not use the Disputed Domain Name for bona fide offering of goods or services.

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’s registration of the Disputed Domain Name incorporates the SODEXO Marks in their entirety. The Panel also notes that the time of registration of the Disputed Domain Name in 2024 is well after the registration of the Complainant’s SODEXO Marks. Based on the submission and evidence provided by the Complainant, the Panel considers that the Complainant has accrued substantial goodwill in the SODEXO Marks over the years since its establishment. The Panel also recognizes that the Complainant’s well-known reputation has been considered and acknowledged by earlier

UDRP decisions as provided by the Complainant to the Panel in its submissions. Considering the well-known character and reputation of the Complainant and the SODEXO Marks, it would not be plausible for the Respondent to claim that it was unaware of the Complainant and the SODEXO Marks. The Panel is prepared to infer that the Respondent knew or should have known that its registration of the Disputed Domain Name would be confusingly similar to the SODEXO Marks. ([WIPO Overview 3.0](#), section 3.2.2.). Accordingly, the Panel finds that the Respondent's registration of the Disputed Domain Name, which is confusingly similar to the SODEXO Marks, is a clear indication of bad faith.

According to paragraph 4(b)(iv) of the Policy, if by using the Disputed Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line 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, is an indicator of bad faith on the part of the Respondent. As elaborated in the previous section "B. Rights or Legitimate Interests" and in the paragraph above, the Respondent used the Disputed Domain Name to attract Internet users through confusion with the SODEXO Marks, leading them to click on commercial links which lead to other websites relating to offering of services that compete with the Complainant's business. In view of this, the Panel is of the view that the Respondent registered and used the Disputed Domain Name in bad faith.

In addition, considering that the Respondent has a track record of being named as a respondent in a number of domain name dispute cases decided under the Policy as identified by the Complainant in its submission, the Panel finds it reasonable to infer that the Respondent has engaged in a pattern of cybersquatting, such as the conduct in this case. Such conduct constitutes a further indication of 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 <sodexo-career.com> be transferred to the Complainant.

*/Rosita Li/*

**Rosita Li**

Sole Panelist

Date: October 7, 2024