

ADMINISTRATIVE PANEL DECISION

Delsey v. Hassan Shegefti
Case No. D2023-2319

1. The Parties

The Complainant is Delsey, France, represented by Domgate, France.

The Respondent is Hassan Shegefti, United Arab Emirates.

2. The Domain Name and Registrar

The disputed domain name <delseyiran.org> is registered with 1API GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 30, 2023. On May 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 31, 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 June 9, 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 June 20, 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 the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on July 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 7, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 8, 2023.

The Center appointed Theda König Horowicz as the sole panelist in this matter on August 11, 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 the Rules, paragraph 7.

4. Factual Background

The Complainant is a French company founded in 1946 and operating internationally in the field of luggage. The name of the company is a contraction of the name of its founders, *Delahaye* and *Seynhæve*.

The Complainant operates through 6'500 points of sale in over 110 countries and through its main website "www.delsey.com" which promotes and commercializes worldwide the DELSEY goods, including in Dubai, in the United Arab Emirates, being noted that the Respondent is located in the United Arab Emirates.

The Complainant owns several trademark registrations for DELSEY, among which the International Trademark Registration No. 1201488 for DELSEY, registered on March 6, 2014 and includes Iran (Islamic Republic of) among the designated countries.

The Complainant also owns several domain names comprising DELSEY including <delsey.com>, <delsey.ae>, and <delsey-iran.com>.

According to the Whois records, the disputed domain name was registered on September 18, 2017. The disputed domain name redirects to an online shop in Persian which displays the Complainant's logo and trademark and which contains the following statement (informal translation from Persian into English by using the Google engine):

"From 1946 to 7 decades DELSEY has been your personal and business partner. The main reason for the durability of this cooperation and loyalty for 70 years is the combination of specialization, innovation, creativity, elegance and beauty, which makes it your first choice for travel and adventure.

Welcome to the site DELSEYIRAN. Dalsi Iran is the only official representative of Dalsi Paris in Iran. This site offers products such as suitcases, backpacks, cosmetic bags, pool bags, school bags, etc. We are happy that we have always been your first choice."

5. Parties' Contentions

A. Complainant

The Complainant alleges to be the owner of trademark rights over DELSEY in many countries including in Iran and in the Emirates where the Respondent is based. These marks were registered well before the registration of the disputed domain name which differs only in the geographic term "iran" and the generic Top-Level Domain ("gTLD") ".com" which is irrelevant, notably as it does not affect the overall impression as DELSEY remains the dominant part of the disputed domain name. Therefore, the disputed domain name is confusingly similar to the Complainant's rights over DELSEY.

The Complainant underlines that the name DELSEY is original as it is a combination of the names of the Complainant's founders. The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain names since it has not been authorized by the Complainant to register the disputed domain names or to use its trademark within the disputed domain name, it is not commonly known by the disputed domain name and it is not making either a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name. In particular, the disputed domain name redirects to an online shop.

The Complainant submits that the Respondent has registered the disputed domain name in bad faith, as it redirects to a commercial website which looks like an official DELSEY website by using the Complainant's trademarks and statements wrongly giving the impression of an affiliation. Furthermore, the Complainant's trademark and logo is displayed without prior authorization in order to fraudulently offer the Complainant's products in order to deceive Internet users. Additionally, the Respondent unduly registered five other

domain names comprising DELSEY thus engaging in a cybersquatting pattern of conduct. The Respondent thus registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

- (i) that the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) that the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) that the domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

A. Identical or Confusingly Similar

The Complainant has shown to have obtained trademark rights in DELSEY in several countries including in Iran (Islamic Republic of) and in the United Arab Emirates where the Respondent appears to be based.

According to section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's registered trademark DELSEY since it contains this mark in entirety. The addition of the term "iran" in the disputed domain name does not prevent a finding of confusing similarity as the relevant trademark remains clearly recognizable within the disputed domain name. See section 1.8 of the [WIPO Overview 3.0](#).

ThegTLD ".com" is viewed as a standard registration requirement, and as such is typically disregarded under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the conditions in paragraph 4(a)(i) of the Policy are fulfilled in relation to the disputed domain name.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in a domain name. The list includes:

- (i) the use of the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) being commonly known by the domain name; or
- (iii) the making of a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers.

Once the Complainant establishes a *prima facie* case against the Respondent under this ground, the burden of production shifts to the Respondent to rebut it. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has made sufficient statements in order to demonstrate that the Respondent has no rights or legitimate interests in the disputed domain name.

In particular, the Complainant has not licensed or otherwise permitted the Respondent to use its trademarks. There is no evidence showing that the Respondent would be commonly known by the disputed domain name or that a legitimate business would be run by the Respondent under the disputed domain name.

The Panel therefore finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name and the burden of production shifts to the Respondent who has chosen not to reply.

The Respondent has not rebutted the Complainant's *prima facie* case, and there is no evidence of the types of circumstances set out in paragraph 4(c) of the Policy that might give rise to rights or legitimate interests in the disputed domain name on the part of the Respondent in these proceedings.

The Panel notes that the disputed domain name resolves to an online shop purportedly selling DELSEY goods which does not qualify as a legitimate noncommercial or fair use under the Policy.

As already stated before, nothing is contained in the case file which would show that the disputed domain name has been legitimately noncommercial or fairly used by the Respondent or that the Respondent would have any rights or legitimate interests in the disputed domain name.

Furthermore, the nature of the disputed domain name, incorporating the Complainant's distinctive DELSEY trademark in its entirety with the mere addition of the geographical indication "iran" does not show that the Respondent would have rights or legitimate interests in the disputed domain name and carries a risk of implied affiliation.

The Panel therefore finds that the conditions in paragraph 4(a)(ii) of the Policy are fulfilled in relation to the disputed domain name.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires the complainant to prove both registration and use of the domain name in bad faith. Paragraph 4(b) of the Policy provides examples of circumstances which shall be evidence of registration and use in bad faith:

- (i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the holder's documented out-of-pocket costs directly related to the domain name; or

- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the holder has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the holder's respondent's 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 holder's respondent's website or location or of a product or service on the holder's respondent's website or location.

Accordingly, for the Complainant to succeed, the Panel must be satisfied that the disputed domain name was registered and is being used in bad faith.

Given the circumstances of the case, including the fact that the disputed domain name identically reproduces the Complainant's notorious DELSEY trademark and resolves to a website purportedly selling DELSEY goods, it is inconceivable to the Panel that the Respondent registered the disputed domain name without prior knowledge of the Complainant's trademark and business which has acquired a high level of notoriety since its creation and which is widely promoted worldwide through the Complainant's official website "www.delsey.com".

The bad faith use condition is also fulfilled as the disputed domain name resolves to a website reproducing without authorization the trademark and logo of the Complainant. The website also contains statements giving the false impression to be an authorized dealer of DELSEY goods. The Respondent thus creates on purpose the confusing impression for the consumers, particularly in Iran (Islamic Republic of) since the website is both in Persian and English, that its business is connected to the business of the Complainant, for commercial gain.

By doing so, the Respondent obviously makes a bad faith use of the disputed domain name.

Additionally, the Complainant found the Respondent to have unduly registered five other domain names comprising DELSEY.

The Respondent has not contested the allegations made by the Complainant and his silence in these proceedings is an additional evidence of bad faith in these circumstances. The Panel therefore finds that the disputed domain name was registered and is being used in bad faith.

The Panel therefore finds that the conditions in paragraph 4(a)(iii) of the Policy is fulfilled in relation to the disputed domain name.

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 <delseyiran.org> be transferred to the Complainant.

/Theda König Horowicz/

Theda König Horowicz

Sole Panelist

Date: September 5, 2023