

## **ADMINISTRATIVE PANEL DECISION**

Disc-O-Bed Holdings Limited v. Sadegh Malekpourian Bidgoli  
Case No. DIR2022-0006

### **1. The Parties**

The Complainant is Disc-O-Bed Holdings Limited, Cyprus, represented by ABG Intellectual Property Law, S.L., Spain.

The Respondent is Sadegh Malekpourian Bidgoli, Iran (Islamic Republic of).

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

The disputed domain name <discobed.ir> is registered with IRNIC.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 10, 2022. On March 10, 2022, the Center transmitted by email to IRNIC a request for registrar verification in connection with the disputed domain name. On March 12, 2022, IRNIC 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 .ir Domain Name Dispute Resolution Policy (the “Policy” or “irDRP”), the Rules for .ir Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .ir Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 14, 2022. In accordance with the Rules, paragraph 5(a), the due date for Response was April 3, 2022. On April 5, 2022, the Center notified the Respondent’s default.

The Center appointed Andrew F. Christie as the sole panelist in this matter on April 11, 2022. 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 family-owned business established in 1988, domiciled in Cyprus, and operating in five continents. The Complainant provides its customers with beds and bunk beds that are robust, transportable, simple to assemble and hygienic. Its main product is the “Disc-o-Bed”, a modular bed designed with the outdoor enthusiast in mind, for accommodating more sleepers without crowding the tent.

The Complainant is the owner of numerous trademark registrations throughout the world, including German Trade Mark Registration No. 30655885 (registered December 19, 2006) for the word trademark DISC-O-BED, United States Trademark Registration No. 4707457 (registered on March 24, 2015, first used in commerce on April 1, 1987) for the word trademark DISC-O-BED, and United States Trademark Registration No. 4707479 (registered on March 24, 2015, first used in commerce on January 1, 2011) for the stylized trademark DISCOBED.

The Complainant is the owner of several domain names that contain the “discobed” term, including <discobed.com> in use since as least 2003, and <discobedshop.com> in use since at least 2008.

According to the Registrar, the disputed domain name was created on April 21, 2013, and has been registered by the current registrant, the Respondent, since August 25, 2021. The Complainant has provided undated screenshots of the website resolving from the disputed domain name, at which is advertised what appear to be the Complainant’s products, using the Complainant’s DISCOBED stylized trademark and photographs that appear to be identical to the photographs of products advertised on the Complainant’s official website at “www.discobed.com”. At the time of this decision, the disputed domain name resolves to the same website that appears to be the website shown in the Complainant’s screenshots, where products under the stylized trademark DISCOBED are reproduced, advertised, and offered for sale.

The Complainant sent a cease and desist letter to the Respondent on February 22, 2022, to which it did not receive a response.

#### 5. Parties’ Contentions

##### A. Complainant

The Complainant made the following contentions to establish that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The disputed domain name is composed of two elements: the term “discobed” and the country-code Top-Level Domain (“ccTLD”) “.ir”, with the latter being disregarded as it is a standard registration requirement. In the stylized DISCOBED trademark there is an absence of any perceptible hyphens between the different word elements (“disc”, “o” and “bed”) such that they are perceived as consisting of merely one word element, “discobed”, which is identical to the disputed domain name. The stylized trademark and the disputed domain name are visually and/or aurally identical.

The Complainant made the following contentions to establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant first used its trademarks in commerce in 1987. There is no evidence that, before any notice to the Respondent of the dispute, the Respondent used or made preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services. The Respondent has not been commonly known by the disputed domain name. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain misleadingly to divert consumers or to tarnish the Complainant’s trademarks. The TMView database does not show any trademark owned by the Respondent in Iran in connection with the term “discobed”. The Respondent is not affiliated with or authorized by the Complainant to use its trademarks. Whilst the Respondent might argue that the website resolving from the disputed domain name offers genuine products of the Complainant, the Respondent does not meet the third requirement specified in the case *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#), namely that “the site must accurately disclose the registrant’s relationship with the trademark owner”. The use of a domain name which

intentionally trades on the fame of another and suggests affiliation with the trademark owner cannot constitute a *bona fide* offering of goods or services.

The Complainant made the following contentions to establish that the disputed domain name was registered and is being used in bad faith. By using the disputed domain name, 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 trademark 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. There is no plausible circumstance under which the Respondent could legitimately register and use the disputed domain name, which is identical to the DISC-O-BED trademark, other than for the purpose of confusion with the Complainant's DISC-O-BED trademark. Given the reputation of the distinctive DISC-O-BED trademark, the Respondent must have been aware of the trademark at the time of registration. The Respondent not only registered a domain name which is identical to the Complainant's trademark, but used it for a website that apparently offers the Complainant's products, reproduces the Complainant's trademarks, and displays the same photographs that the Complainant uses on its website at "www.discobed.com". The disputed domain name has resolved to a website primarily in the Farsi language, with each page of the website headed with the Complainant's stylized DISCOBED trademark. From the translation of the website, it is obvious that the Respondent presents itself either as the Complainant or as its sales/commercial representative in Iran. The website content, eminently displaying the Complainant's trademarks and offering for sale goods identical to those of the Complainant and bearing the Complainant's trademarks, further supports knowledge by the Respondent of the Complainant and its field of activity, reinforcing the likelihood of confusion as Internet users are likely to consider the disputed domain name as in some way endorsed by or connected with the Complainant. No license, permission or authorization has been granted by the Complainant to the Respondent to enable the latter to use the Complainant's photographs taken directly from the Complainant's official website. The Respondent did not reply to the Complainant's cease and desist letter, sent on February 22, 2022.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

Once the ccTLD ".ir" is ignored (which is appropriate in this case), the disputed domain name consists of the Complainant's registered word trademark DISC-O-BED, without the hyphens. The Complainant's word trademark is clearly recognizable within the disputed domain name. The absence of the hyphens does not avoid the confusing similarity of the disputed domain name to the Complainant's word trademark.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

### **B. Rights or Legitimate Interests**

The Respondent is not a licensee of the Complainant, is not otherwise affiliated with the Complainant, and has not been authorized by the Complainant to use either its DISC-O-BED word trademark or its DISCOBED stylized trademark. The Respondent has not provided any evidence that it has been commonly known by, or has made a *bona fide* use of, the disputed domain name, or that it has, for any other reason, rights or legitimate interests in the disputed domain name. The evidence provided by the Complainant shows that the disputed domain name was used to resolve to a website that purported to sell the Complainant's goods and services, and which displayed the Complainant's stylized trademark and photographs that almost certainly were taken from the Complainant's official website. The contents of the website are such that many Internet users will form the false belief that the website is operated by, or affiliated with, the Complainant. Given the

confusing similarity of the disputed domain name to the Complainant's trademark, the absence of any relationship between the Respondent and the Complainant, and the failure to avoid the implied false affiliation with the Complainant, such a use of the disputed domain name is neither a *bona fide* use nor a legitimate noncommercial or fair use.

The Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and the Respondent has not rebutted this. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

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

The disputed domain name was registered by the Respondent many years after the Complainant first used and first registered its DISC-O-BED word trademark and its DISCOBED stylized trademark. It is inconceivable that the Respondent registered the disputed domain name ignorant of the existence of the Complainant's trademarks, given that the disputed domain name contains the Complainant's word trademark (apart from the hyphens), and that the Respondent used the disputed domain name to resolve to a website at which the Complainant's stylized DISCOBED trademark is displayed and products that purport to be the Complainant's goods are advertised.

Given the Respondent's lack of rights or legitimate interests in the disputed domain name, and the confusing similarity of the disputed domain name to the Complainant's word trademark, any use of the disputed domain name by the Respondent almost certainly implies an affiliation with the Complainant that does not exist, and so would be a use in bad faith.

Furthermore, the evidence on the record provided by the Complainant indicates that the Respondent has used the disputed domain name in an attempt to attract, for commercial gain, Internet users to a website by creating confusion in the minds of the public as to an association between the website and the Complainant.

Accordingly, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

### **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, <discobed.ir>, be transferred to the Complainant.

*/Andrew F. Christie/*

**Andrew F. Christie**

Sole Panelist

Date: April 25, 2022