

ADMINISTRATIVE PANEL DECISION

7-Eleven, Inc. v. Sepehr Shariati Tehrani
Case No. DIR2022-0007

1. The Parties

The Complainant is 7-Eleven, Inc., United States of America (“United States”), represented Saba & Co. IP, Lebanon.

The Respondent is Sepehr Shariati Tehrani, Iran (Islamic Republic of).

2. The Domain Name and Registrar

The disputed domain name <7-11.ir> is registered with IRNIC.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 16, 2022. On March 16, 2022, the Center transmitted by email to IRNIC a request for registrar verification in connection with the disputed domain name. On March 19, 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 31, 2022. In accordance with the Rules, paragraph 5(a), the due date for Response was April 20, 2022. On April 21, 2022, the Center notified the Respondent’s default.

The Center appointed John Swinson as the sole panelist in this matter on April 26, 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 operates over 60,000 convenience stores in numerous countries around the world. The Complainant was established in 1946.

The Complainant owns many trademark registrations for 7-ELEVEN in countries around the world. These include a trademark registration for 7-ELEVEN in Iran, being Registration No. 172273 with a registration date of October 6, 2010.

The creation date for the disputed domain name is December 25, 2010. The date of registration by the Respondent is recorded in the Registrar's records as November 8, 2016.

The Respondent did not file a Response, so little is known of the Respondent.

The disputed domain name resolves to a website in Arabic. According to Google Translate, the title of the website in English is "Useful information center for Persian speaker" and "Collection of psychology and beauty sites". The website, which appears to be a blog, has articles about Botex and about personal development of children. The website also has articles about online advertising, marketing of medical clinics, and similar topics.

5. Parties' Contentions

A. Complainant

In summary, the Complainant makes the following submissions:

The Complainant's business and its goods and services are famous around the globe.

The Complainant owns countless trademark registrations for 7-ELEVEN and 7-11 in several countries around the world, including Iran. The Complainant's trademarks are inherently distinctive.

The Complainant also has an extensive online presence and consumers closely associate with and use the Internet to learn about the Complainant's goods and services.

The disputed domain name is identical to the Complainant's trademark. The incorporated trademark in its corresponding numerals constitutes the only component of the disputed domain name which is phonetically identical to the Complainant's registered trademark.

Nothing in the Whois information for the disputed domain name, or on the Respondent's website at the disputed domain name, demonstrates that the Respondent is commonly known by the disputed domain name. The Complainant has not authorized the Respondent to use the Complainant's trademarks and that the Respondent is using the trademark 7-11 in the disputed domain name without the Complainant's authorization.

The Respondent's use of the disputed domain name infringes the Complainant's trademark rights. There is no justification for the Respondent's registration of the disputed domain name.

The disputed domain name plainly misappropriates sufficient textual components from the Complainant's trademark that an ordinary Internet user who is familiar with the Complainant's 7-ELEVEN trademark and goods would, upon seeing the disputed domain name, think an affiliation exists between the disputed domain name and the Complainant or its 7-ELEVEN trademark.

The Complainant sent a warning letter to the Respondent on January 5, 2022, and the Respondent failed to comply with the Complainant's demands and refused to cancel or transfer the disputed domain name to the

Complainant. The Respondent instead, confirmed that the disputed domain name is available for sale without any attempt to justify or explain the Respondent's registration of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

(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 or is being used in bad faith.

The *onus* of proving these elements is on the Complainant.

Paragraph 15(a) of the Rules directs the Panel to decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy provides that the Complainant must establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant owns trademark registrations for 7-ELEVEN in many countries and at least one trademark registration for 7-11.

The disputed domain name is confusingly similar to the 7-ELEVEN trademark and is identical to the 7-11 trademark. The change of the word "eleven" to the numeral "11" in the disputed domain name does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's 7-ELEVEN trademark under the Policy. Moreover, phonetically, the disputed domain name remains identical to the Complainant's trademarks.

The relevant trademark is recognizable within the disputed domain name. *Hostelworld.com Limited v. Contact Privacy Inc. / Shamlee Pingle*, WIPO Case No. [D2021-1849](#)¹.

The Complainant succeeds on the first element of the Policy in relation to the disputed domain name.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

¹ Considering the substantive similarities between the Rules for .ir Domain Name Dispute Resolution Policy and the Uniform Domain Name Dispute Resolution Policy (the "UDRP"), the Panel also refers to UDRP case law and analysis, where appropriate.

(i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a *bona fide* offering of goods or services; or

(ii) [the Respondent] (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if [the Respondent] has acquired no trademark or service mark rights; or

(iii) [the Respondent] is making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a domain name.

The *onus* of proving this requirement, like each element, falls on the Complainant.

Previous UDRP panels have recognized the difficulties inherent in proving a negative, however, especially in circumstances where much of the relevant information is in, or likely to be in, the possession of the respondent. Accordingly, it is sufficient for a complainant to raise a *prima facie* case against the respondent under this head and an evidential burden of production will shift to the respondent to rebut that *prima facie* case.

The Complainant asserts that nothing in the Whois information for the disputed domain name, or on the Respondent's website at the disputed domain name, demonstrates that the Respondent is commonly known by the disputed domain name. The Complainant states that the Complainant has not authorized the Respondent to use the Complainant's trademarks and that the Respondent is using the trademark 7-11 in the disputed domain name without the Complainant's authorization. The Complainant also asserts that the Respondent's use of the disputed domain name infringes the Complainant's trademark rights.

The Panel's limited review of the website at the disputed domain name does not assist the Respondent. There is no indication on this website as to why the Respondent selected the disputed domain name or to show that the Respondent may have rights or legitimate interests in the disputed domain name.

The Panel considers that, based upon the above, the Complainant has established a *prima facie* case that the Respondent does not have any rights or legitimate interests in the disputed domain name and thereby the burden shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the disputed domain name.

The Respondent has chosen not to file any Response. The Panel finds that the Respondent has failed to produce any evidence to establish its rights or legitimate interests in the disputed domain name.

Based on the evidence before the Panel, none of the circumstances listed in paragraph 4(c) apply in the present circumstances. Accordingly, the Panel finds that the Respondent has no rights or any legitimate interests in the disputed domain name.

The Complainant succeeds on the second element of the Policy in relation to the disputed domain name.

C. Registered or Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used the disputed domain name in bad faith.

It appears to the Panel that the Respondent registered the disputed domain name to attract Internet users to the Respondent's website or blog, which advertises Botex and other products.

In responding to a demand letter from the Complainant's lawyers, the Respondent stated that the disputed domain name was for sale.

The Complainant's trademarks are very well known and prior panels have held that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

The Panel concludes that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's well-known trademark as to the source, sponsorship, affiliation, or endorsement of that website. This is evidence of the registration and use of the disputed domain name in bad faith under paragraph 4(b)(iv) of the Policy.

The Panel finds that the Respondent has both registered and used the disputed domain name in bad faith.

The Complainant succeeds on the third element of the Policy in relation to the disputed domain name.

7. Decision

For the foregoing reasons, in accordance with paragraph 4(i) of the Policy and paragraph 15 of the Rules, the Panel orders that the disputed domain name <7-11.ir> be transferred to the Complainant.

/John Swinson/

John Swinson

Sole Panelist

Date: May 9, 2022