

ADMINISTRATIVE PANEL DECISION

Alois Dallmayr Kaffee oHG v. Atila Maranaki
Case No. DIR2024-0010

1. The Parties

The Complainant is Alois Dallmayr Kaffee oHG, Germany, represented Saba & Co. Intellectual Property s.a.l., Lebanon.

The Respondent is Atila Maranaki, Iran (Islamic Republic of).

2. The Domain Name and Registrar

The disputed domain name <dallmayr.ir> (the “Domain Name”) is registered with IRNIC.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 14, 2024. On June 14, 2024, the Center transmitted by email to IRNIC a request for registrar verification in connection with the Domain Name. On June 16, 2024, IRNIC transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on June 17, 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 June 21, 2024. Hard copies of the amended Complaint were received by the Center on July 5, 2024.

The Center verified that the Complaint and the amended 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 July 9, 2024. In accordance with the Rules, paragraph 5(a), the due date for Response was July 29, 2024. On July 31, 2024, the Center notified the Respondent’s default.

The Center appointed Gregor Vos as the sole panelist in this matter on August 8, 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 German company active in the field of coffee. The Complainant is active worldwide and operates its business inter alia via the domain name <dallmayr.com>.

The Complainant is the owner of inter alia the following trademark registration (hereinafter referred to as the "Trademark"):

- International Trademark registration No. 953493 for DALLMAYR registered on December 14, 2007, with designation of inter alia Iran (Islamic Republic of).

The Domain Name was registered by the Respondent on December 24, 2023. At the time of filing the Complaint the Domain Name resolved to a page on which the Domain Name was offered for sale and currently it resolves to a parked page with the following text: "This site does not have any commercial or non-commercial activities and does not offer any products or services".

5. Parties' Contentions

A. Complainant

With the Complaint, the Complainant seeks that the Domain Name is transferred to the Complainant. The Complaint is based on the following factual and legal grounds: the Domain Name is identical or confusingly similar to the Trademark of the Complainant, the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name has been registered or is being used in bad faith.

Firstly, according to the Complainant, the Domain Name is confusingly similar to its well-known Trademark. The Domain Name incorporates the Trademark identically with the mere addition of the country-code Top-Level Domain ("ccTLD") ".ir".

Secondly, according to the Complainant, the Respondent has no rights or legitimate interests in the Domain Name. The Respondent has never received a license or any other form of authorization from the Complainant to use the Trademark and has no prior rights to the Domain Name.

Finally, according to the Complainant, the Respondent has registered and is using the Domain Name in bad faith. It is inconceivable that the Respondent registered the Domain Name without knowledge of the Complainant and its Trademark. Also, according to the Complainant, the Domain Name is being used in bad faith as it resolves to a dormant website which offers the Domain Name for sale.

B. Respondent

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

6. Discussion and Findings

In view of the lack of a response filed by the Respondent as required under paragraph 5 of the Rules, this proceeding has proceeded by way of default. Hence, under paragraphs 14(a) and 15(a) of the Rules, the Panel is directed to decide this administrative proceeding on the basis of the Complainant's undisputed factual presentations.

For the Complainant to succeed, it must prove, within the meaning of paragraph 4(a) of the Policy and on the balance of probabilities that:

- i. the Domain Name is identical or confusingly similar to a trademark or a service mark in which the Complainant has rights;
- ii. the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- iii. the Domain Name has been registered or is being used in bad faith.

Only if all three elements have been fulfilled, the Panel is able to grant the remedy requested by the Complainant. The Panel will deal with each of the requirements in turn.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the Domain Name is (i) identical or confusingly similar to a trademark or service mark, (ii) in which the Complainant has rights.

With respect to having rights pursuant to paragraph 4(a)(i) of the Policy, it is noted that the Complainant is registered as the owner of the Trademark. Consequently, the Panel finds that the Complainant has proven that it has rights in the Trademark.

With regard to the assessment of identity or confusing similarity of the Domain Name with the Trademark, it is generally accepted that this test involves a reasoned but relatively straightforward comparison between the Complainant's Trademark and the Domain Name (see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").¹ In cases where a domain name incorporates the entirety of a trademark the domain name will normally be considered confusingly similar to that mark (see section 1.7 of the [WIPO Overview 3.0](#)).

In the present case, the Trademark is incorporated identically in the Domain Name. The ccTLD ".ir" is typically disregarded for the purpose of assessing identity or confusing similarity under the first element (see sections 1.7 and 1.11.1 of the [WIPO Overview 3.0](#)). Consequently, the Panel finds that the requirement under paragraph 4(a)(i) of the Policy has been satisfied.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the Domain Name. The onus of proving this requirement, like each element, falls on the Complainant. Given the difficulty in proving a negative, however, it is usually sufficient for a complainant to make out a prima facie case that a respondent lacks rights or legitimate interests. If a complainant does establish a prima facie case, the burden of production shifts to the respondent (see, e.g. [WIPO Overview 3.0](#), section 2.1; *Sanofi v. Cimpress Schweiz GmbH*, WIPO Case No. [D2017-0522](#)).

Paragraph 4(c) of the Policy lists three non-limitative examples of instances in which a respondent may establish rights or legitimate interests in the disputed domain name.

The Complainant has substantiated that none of these circumstances apply in this case. By defaulting, the Respondent has failed to rebut the prima facie case established by the Complainant. Furthermore, based on the record before it, the Panel does not see an indication that any of the circumstances of paragraph 4(c) of the Policy is present.

¹The Policy as amended generally conforms to the Uniform Domain Name Dispute Resolution Policy (UDRP). The factors set forth in paragraph 4 of the Policy are identical to those set forth in paragraph 4 of the UDRP with one exception. Bad faith, as noted in paragraph 4(a)(iii) of the Policy merely requires a complainant to provide sufficient proof of either bad faith registration or bad faith use, not, as required by the UDRP, both. The Panel will rely on relevant UDRP jurisprudence for appropriate guidance, though cognizant of and taking this difference into account.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name. Paragraph 4(a)(ii) is thereby fulfilled.

C. Registered or Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, a complainant must show that the disputed domain name has been registered or is being used in bad faith. Paragraph 4(b) of the Policy lists four non-limitative circumstances which may be considered as evidence of registration and use in bad faith of a domain name.

In the present case, the Trademark is registered by the Complainant and has been used for many years prior to the Respondent's registration of the Domain Name. The Panel agrees with the Complainant that it is not conceivable that the Respondent chose the Domain Name without knowledge of the Complainant's activities and its Trademark under which the Complainant is doing business, which is reinforced by the fact that the Domain Name incorporates the Trademark identically and thus creates a high risk of implied affiliation.

The Domain Name resolved to a page on which the Domain Name was offered for sale. In light of the lack of any rights or legitimate interest in the Domain Name by the Respondent, the composition of the Domain Name, which includes the Complainant's Trademark in its entirety, and in the absence of any conceivable good faith use of the Domain Name, the Panel finds from the present circumstances that the Respondent has intentionally sought to take unfair advantage of or otherwise abuse the Trademark.

Accordingly, the Panel finds that the Domain Name has been registered and is being used in bad faith and that the third element of paragraph 4(a)(iii) of the Policy is fulfilled.

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 Domain Name <dallmayr.ir> be transferred to the Complainant.

/Gregor Vos /

Gregor Vos

Sole Panelist

Date: August 26, 2024