

## **ADMINISTRATIVE PANEL DECISION**

VALEO v. Iman Soltanian

Case No. DIR2023-0001

### **1. The Parties**

The Complainant is VALEO, France, represented Tmark Conseils, France.

The Respondent is Iman Soltanian, Iran (Islamic Republic of).

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

The Disputed Domain Name <valeo.ir> is registered with IRNIC.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 20, 2023. On January 23, 2023, the Center transmitted by email to IRNIC a request for registrar verification in connection with the Disputed Domain Name. On January 24, 2023, 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 January 26, 2023. In accordance with the Rules, paragraph 5(a), the due date for Response was February 15, 2023. On February 17, 2023, the Center notified the Respondent’s default.

The Center appointed Emre Kerim Yardimci as the sole panelist in this matter on February 23, 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, Valeo, is a French registered company since incorporation in 1955 and is an automotive supplier and partner to automakers worldwide in relation to smart mobility, with a particular focus on intuitive driving and reducing carbon dioxide emissions. The Complaint includes evidence that the Complainant has numerous registered trademarks around the world including:

(a) France Registered Trademark No. 319367, VALEO, which was registered in August 1966 for a range of goods in International Classes 6, 7, 9, 11, and 12;

(b) France Registered Trademark No. 1336045, VALEO, which was registered in December 1985 for a wide range of goods and services in International Classes 1, 2, 3, 4, 6, 7, 9, 11, 12, 14, 16, 17, 25, 28, 35, 37, 38, 39, and 41;

The Complainant also owns many domain names consisting of or including the Complainant's trademark, for example <valeo.com>.

According to the Complainant, the Disputed Domain Name was registered on December 7, 2020. According to IRNIC, the Disputed Domain Name was registered on November 17, 2021.

At the time of drafting the Decision, the Disputed Domain Name resolved to a webpage offering automotive products and using the Complainant's logo (albeit in a different color scheme), company information including the name of its CEO, its history, links to the Complainant's domain name at <valeo.com>, reports, and publications of the Complainant without permission.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant asserts that the Disputed Domain Name <valeo.ir> is identical to its registered trademark VALEO.

The Complainant considers that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name, mainly because the Complainant has neither licensed nor otherwise authorized the Respondent to use its marks or to apply for or use any domain name incorporating the trademark VALEO. The Complainant claims that the Respondent cannot assert that it has made or is currently making a legitimate noncommercial or fair use of the Disputed Domain Name.

Finally, in addressing the question of registration or use of the Disputed Domain Name in bad faith, the Complainant observes that the Respondent knew of the Complainant's activity and prior trademark rights when the Respondent registered the Disputed Domain Name. The Complainant further argues that the fact that the Disputed Domain Name resolves to a website with unauthorized use of the Complainant's logo, Complainant's history, Complainant's company information, and publications with the indication that the Respondent is an official dealer of the Complainant, is clear evidence of bad faith registration and use at the same time.

The Complainant finally claims that the Respondent is using the Disputed Domain Name with the aim to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark and for the purpose of disrupting the Complainant's business and targeting the Complainant's trademark.

##### **B. Respondent**

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

## 6. Discussion and Findings

### 6.1. Effect of the Default

Paragraph 14(b) of the Rules provides that, in the absence of exceptional circumstances, a panel shall draw such inferences as it considers appropriate from a failure of a party to comply with a provision or requirement of the Rules.

As there are no exceptional circumstances for the failure of the Respondent to submit a formal Response, the Panel infers that the Respondent does not deny the facts asserted and contentions made by the Complainant. Therefore, asserted facts that are not unreasonable will be taken as true and the Respondent will be subject to the inferences that flow naturally from the information provided by the Complainant. *Reuters Limited v. Global Net 2000, Inc*, WIPO Case No. [D2000-0441](#)<sup>1</sup>.

### 6.2. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, the Complainant is required to prove the presence of each of the following three elements to obtain the remedy it has requested:

- (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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.

#### A. Identical or Confusingly Similar

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

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. As indicated above, VALEO is the Complainant's registered trademark since 1985 and the Complainant holds multiple registrations for VALEO all around the world.

The Disputed Domain Name <valeo.ir> integrates the Complainant's VALEO trademark as a sole element. As regards the domain suffix ".ir", it is typically disregarded under the confusing similarity test.

Consequently, the Panel finds that the Complainant has shown that the Disputed Domain Name is identical to a trademark in which the Complainant has rights and satisfied the requirement under paragraph 4(a)(i) of the Policy.

#### B. Rights or Legitimate Interests

The *onus* is on the Complainant to make out at least a *prima facie* case that the Respondent has no rights or legitimate interests in the Disputed Domain Name, and it is then for the Respondent to rebut this case.

The Panel accepts the Complainant's submissions that the Respondent does not appear to be known by the Disputed Domain Name, has not used or made demonstrable preparations to use the Disputed Domain

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<sup>1</sup> The 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.

Name in connection with a *bona fide* offering of goods or services, is not making a legitimate noncommercial or fair use of the Disputed Domain Name, and has no consent from the Complainant to use its trademark. Rather, the Respondent has used the Disputed Domain Name, which being identical to the Complainant's fanciful mark carries a high risk of implied affiliation, to present a website that impersonates the Complainant, clearly reflecting the Respondent's intention to mislead unsuspecting Internet users as to the affiliation of the Disputed Domain Name to the Complainant, which cannot confer rights or legitimate interests upon the Respondent.

The Respondent has not filed a Response. In accordance with the established jurisprudence of the Policy, the burden of production on the Respondent's rights or legitimate interests thus shifts to the Respondent to come forward with relevant evidence.

The Complainant has made out its *prima facie* case under this element of the Policy and the Respondent has failed to rebut it. Accordingly, the Complainant succeeds in relation to the second element of the Policy.

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

At the time of registration by the Respondent of the Disputed Domain Name, which occurred either in 2020 or 2021, the Complainant's trademark VALEO was a well-known trademark for a very long time.

As the Complainant submits, it is inconceivable that the Respondent would not have known of the Complainant's trademark. Moreover, the Panel notes that the Complainant's trademark was registered in 1966, with a first use of the mark since the beginning of the sixties, *i.e.*, well before the Disputed Domain Name was registered.

The incorporation of a well-known trademark into a domain name by a registrant having no plausible explanation for doing so may be, in and of itself, an indication of bad faith (*Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#); *General Electric Company v. CPIC NET and Hussain Syed*, WIPO Case No. [D2001-0087](#); *Microsoft Corporation v. Montrose Corporation*, WIPO Case No. [D2000-1568](#)).

It appears from the screenshot of the website at the Disputed Domain Name, which is again not contended by the Respondent, that the Disputed Domain Name resolves to an active website where;

- the stylized VALEO trademark is used at the top of the page.
- reports and articles published on the Complainant's website are shared.
- several unauthorized active links to the Complainant's website are shared.
- information on the Complainant company and its history (including the name of its CEO, though incorrect) are shared.
- the Respondent states that they are the official representative of Valeo products.
- a list VALEO dealers located in Iran are provided.

Based on the evidence submitted with the Complaint, it is unequivocally clear that the Respondent was well aware of the Complainant's trademark and its activity. Considering all above facts, there is no doubt that the Respondent had the Complainant's trademark in mind when registering the Disputed Domain Name and is using the Disputed Domain name in bad faith manner.

The above-mentioned use of the Complainant's well-known trademark in the Disputed Domain Name for an intentional attempt to attract for commercial gain Internet users by creating a likelihood of confusion through suggesting source, sponsorship, affiliation, or endorsement by the Complainant of the Respondent's website, amounts to evidence of bad faith registration and use as per paragraph 4(b)(iv) of the Policy.

Therefore, the Panel finds that the Respondent registered and is using the Disputed Domain Name in bad faith. The Complainant has established the requirements of paragraph 4(a)(iii) 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 <valeo.ir> be transferred to the Complainant.

*/Emre Kerim Yardimci/*

**Emre Kerim Yardimci**

Sole Panelist

Date: March 14, 2023