

ADMINISTRATIVE PANEL DECISION

Monabanq v. Alireza Kashani
Case No. DIR2023-0008

1. The Parties

The Complainant is Monabanq, France, represented by SafeBrands, France.

The Respondent is Alireza Kashani, Iran (Islamic Republic of).

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 21, 2023. On August 21, 2023, the Center transmitted by email to IRNIC a request for registrar verification in connection with the disputed domain name. On August 22, 2023, IRNIC 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 (Data restricted) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 22, 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 August 24, 2023.

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 August 24, 2023. In accordance with the Rules, paragraph 5(a), the due date for Response was September 13, 2023. On September 14, 2023, the Center notified the Respondent’s default.

The Center appointed Zoltán Takács as the sole panelist in this matter on September 25, 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

Founded in 2006 and being part of the Cofidis Group, the Complainant is a French online banking business with more than 240 employees.

In its 2019 “World’s Best Banks” publication Forbes ranked the Complainant as number one in the “Best French Bank” category.

The Complainant owns a number of trademark registrations for the mark MONABANQ in various jurisdictions, such as the European Union Trademark Registration No. 005368097 for the word mark MONABANQ., registered on October 18, 2007, for goods and services of classes 9, 16, 35, 36, and 38 of the Nice Agreement Concerning the International Classification of Good and Services for the Purpose of the Registration of Marks.

The Complainant also owns the domain name <monabanq.com>, which was registered on March 23, 2006, and resolves to its corporate website.

According to the Registrar Verification of August 22, 2023, the disputed domain name’s “creation date” was August 23, 2020. The evidence presented by the Complainant indicates that the disputed domain name was originally registered by another individual (hereinafter “the original registrant”) who was offering it for sale at the “www.vilber.ir” website.

As stated in the Registrar Verification the “Date of Registration by the Current Registrant” was January 29, 2023. Until April 6, 2023 there was no content on the website at the disputed domain name, since when it resolves to a Persian language website displaying various news posts of the alleged Monabanq News Agency. Currently, the disputed domain name is also being offered for sale at the “www.vilber.ir” website.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

- the disputed domain name, which replicates its trademark is identical to it;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name was registered in order to benefit from the Complainant’s trademark for commercial gain by, in particular, selling the disputed domain name.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

B. Respondent

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

6. Discussion and Findings

6.1 Nature of the Policy

The Panel notes that the Policy is similar to the Uniform Domain Name Dispute Resolution Policy (“UDRP”) and will in this case refer to prior UDRP cases and principles as well as the applicable sections of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), where applicable.

6.2 Substantive Matters

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that:

- (i) the 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 domain name; and
- (iii) the domain name has been registered or is being used in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name is comprised of the textual component of the Complainant’s trademark. The applicable Top-Level Domain (“TLD”), which as a standard registration requirement is disregarded under the first element test. [WIPO Overview 3.0](#), sections 1.0 and 1.11.1.

Accordingly, the Panel finds that the disputed domain name is identical to the mark for the purposes of the Policy.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests to the disputed domain name for purposes of paragraph 4(a)(ii).

While the overall burden of proof in the proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the evidence submitted by the Complainant and the facts the Panel - pursuant to paragraphs 10 and 12 of the Rules and section 4.8 of the [WIPO Overview 3.0](#) - obtained on its own initiative by consulting the Internet Archive (“www.archive.org”) in order to obtain further evidence of how the disputed domain name may have used in the relevant past, the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent is not affiliated with the Complainant in any way and the Complainant has not authorized the Respondent to use its trademark in a domain name or otherwise.

According to the November 19, 2022 dated web capture of the Internet Archive, the original registrant was offering the disputed domain name for sale at the website “www.vilber.ir”. The “Visit Website” link of the “www.vilber.ir” website redirected to the original registrant’s “www.dadwic.com” website.

On February 22, 2023, the Complainant sent a “Prior Rights Letter” to the “[...]@yahoo.com” email address of the original registrant, asking him to clarify his rights and/or legitimate interests in respect of the use of the Complainant’s MONABANQ trademark in the disputed domain name and subsequently to either transfer the disputed domain name to the Complainant or delete it.

The Respondent obtained the disputed domain name on January 29, 2023. However, until April 6, 2023, there was no content on the website at the disputed domain name, since when it resolves to a Persian language website showing the Complainant’s trademark and displaying various news posts of the alleged Monabanq News Agency. The disputed domain name is also being offered for sale at the “www.vilber.ir” website, likely controlled by the original registrant of the disputed domain name.

The evidence submitted by the Complainant also indicates that the Respondent started redirecting the disputed domain name to a Persian language website displaying various news posts of the alleged Monabanq News Agency more than 2 months after the Complainant formally notified the original registrant of its claims concerning the disputed domain name. This timing, coupled with the above discussed facts, in view of the Panel suggest what the Complainant alleges, namely that the Respondent’s purpose of starting the blogging activity on the website at the disputed domain name was to try to establish rights or legitimate interests in the disputed domain name. In view of the Panel such use of the disputed domain name is pretextual and cannot establish rights or legitimate interests in the disputed domain name. [WIPO Overview 3.0](#) section 2.2.

Moreover, the composition of the disputed domain name carries a high risk of implied affiliation with the Complainant ([WIPO Overview 3.0](#), section 2.5.1) The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name and the Panel finds that the second element of the Policy has been established.

C. Registered or Used in Bad Faith

“Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark”. [WIPO Overview 3.0](#), section 3.1.

Having reviewed the facts and circumstances of the case, the Panel finds that the following factors support a finding that the disputed domain name was registered and is being used for the bad-faith purpose of targeting the Complainant’s trademark, most likely through selling it to the trademark owner or its competitor:

- the disputed domain name replicates the Complainant’s distinctive trademark in its entirety ([WIPO Overview 3.0](#), section 3.1.1.);
- a basic Internet search against the disputed domain returns solely the Complainant and its trademark, hence it is highly unlikely that it was obtained without actual knowledge of the Complainant and its trademark ([WIPO Overview 3.0](#), section 3.2.2); and

- the Respondent ignored the proceeding and failed to present any rationale for registration and use of the disputed domain name replicating the Complainant's trademark, or to dispute the compelling argumentation and evidence submitted by the Complainant.

As discussed under section B of this decision, the evidence suggests that the Respondent, while offering the disputed domain name for sale on the website owned or controlled by the original registrant started using the Complainant's trademark without authorization and any rationale for blogging activity on the website at the inherently misleading disputed domain name months after the Complainant formally notified the original registrant of its claims.

The timing of such use in view of the Panel indicates that the registration and subsequent use of the disputed domain name was not undertaken for a legitimate reason or purpose but rather to obscure the underlying cybersquatting activity.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 <monabanq.ir> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: October 3, 2023