

ADMINISTRATIVE PANEL DECISION

Enterprise Holdings, Inc. v. Izak Sedighpour
Case No. DIR2023-0009

1. The Parties

The Complainant is Enterprise Holdings, Inc., United States of America (“United States”), represented by Saba & Co. Intellectual Property s.a.l. (Offshore) Head Office, Lebanon.

The Respondent is Izak Sedighpour, Islamic Republic of Iran.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 7, 2023. On September 12, 2023, the Center transmitted by email to IRNIC a request for registrar verification in connection with the disputed domain name. On September 17, 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 “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 September 20, 2023. In accordance with the Rules, paragraph 5(a), the due date for Response was October 10, 2023. On October 16, 2023, the Center notified the Respondent’s default.

The Center appointed Assen Alexiev as the sole panelist in this matter on October 17, 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 is a privately-owned American car rental company founded in 1957. It operates several car rental brands, including Enterprise Rent-A-Car, National Car Rental, and Alamo Rent A Car. Together with its affiliated companies, the Complainant operates in more than 100 countries through over 8,000 offices and employs about 80,000 persons.

The Complainant is the owner of a number of trademark registrations for the sign ENTERPRISE, including the Iranian trademark ENTERPRISE with registration No. 93440, registered on April 28, 2001, for services in International Class 39 (the "ENTERPRISE trademark").

The Complainant is also the owner of the domain name <enterprise.com>, which resolves to its principal e-commerce website for online vehicle rental.

The disputed domain name was registered on July 19, 2010. It resolves to a parking webpage in Persian, which invites visitors to send a price offer to the owner of the disputed domain name if they want to buy it.

5. Parties' Contentions

A. Complainant

The Complainant states that the disputed domain name is confusingly similar to its ENTERPRISE trademark, because it solely incorporates the distinctive part of the same trademark. According to the Complainant, consumers would be confused as to the origin of the disputed domain name and would expect a connection between the Complainant's trademark and the disputed domain name.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it has not used the disputed domain name, is not commonly known by it, and 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 ENTERPRISE trademark. The disputed domain name currently does not resolve to a website, and the Complainant has not authorized the Respondent to use the ENTERPRISE trademark. Accordingly, customers are likely to be confused that this is somehow associated with the Complainant. In the Complainant's view, there is no other reason for the Respondent to use the ENTERPRISE trademark other than to trade off the established goodwill in the ENTERPRISE trademark.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. It points out that without any authorization from the Complainant, and without any legitimate right, the Respondent used "enterprise" in the disputed domain name to attract Internet users for commercial gain. According to the Complainant, the disputed domain name misappropriates sufficient textual components from the Complainant's name, so that an ordinary Internet user who is familiar with this name would, upon seeing the disputed domain name, think that an affiliation exists between it and the Complainant. The Complainant adds that the disputed domain name currently does not resolve to a website.

The Complainant notes that on April 10, 2023, it sent a cease-and-desist letter to the Respondent, asking him to transfer the disputed domain name to the Complainant, to which the Respondent did not reply.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the irDRP lists three elements, which the Complainant must satisfy in order to succeed:

- (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.

The irDRP is a variation of the Uniform Domain Name Dispute Resolution Policy (the “UDRP”). The factors set forth in paragraph 4 of the irDRP are identical to those set forth in paragraph 4 of the UDRP with the exception that the irDRP requires a complainant to prove either bad faith registration or bad faith use of a domain name, and not both, as required by the UDRP.

Taking the above difference into account, given the similarities between the irDRP and UDRP the Panel finds it useful to refer to UDRP jurisprudence, including reference to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), where appropriate.

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 the ENTERPRISE trademark for the purposes of the irDRP. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the ENTERPRISE trademark is reproduced within the disputed domain name. It is well accepted that a country code Top-Level Domain (“ccTLD”) suffix, in this case “.ir”, is typically ignored when assessing the confusing similarity between a trademark and a domain name. [WIPO Overview 3.0](#), section 1.11. Accordingly, the disputed domain name is identical to the ENTERPRISE trademark for the purposes of the irDRP. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel therefore finds that the first element of the irDRP 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 in a disputed domain name.

While the overall burden of proof in UDRP 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 or control 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 record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the irDRP or otherwise.

The Panel notes that the disputed domain name is comprised of the word "enterprise". Apart from being identical to the ENTERPRISE trademark of the Complainant, it is also a dictionary word in English. The Panel will therefore consider the relevance of this fact to the issue of rights or legitimate interests.

As discussed in section 2.10.1 of the [WIPO Overview 3.0](#), panels have recognized that merely registering a domain name comprised of a dictionary word or phrase does not by itself automatically confer rights or legitimate interests on the respondent; panels have held that mere arguments that a domain name corresponds to a dictionary term/phrase will not necessarily suffice – here it is to be noted that there is no such argument from the Respondent. In order to find rights or legitimate interests in a domain name based on its dictionary meaning, the domain name should be genuinely used, or at least demonstrably intended for such use, in connection with the relied-upon dictionary meaning and not to trade off third-party trademark rights.

Here, the Respondent has chosen not to submit a Response, and there is no evidence that it has responded to the Complainant's cease-and-desist letter either. The Respondent has neither referred to the dictionary meaning of the word "enterprise", nor shown or even alleged that he has genuinely used or has intended to use the disputed domain name in connection with its dictionary meaning, and not to trade off third-party trademark rights. The disputed domain name is not actively used, but resolves to a parking webpage containing an invitation to interested parties to submit offers for purchase of the disputed domain name. Considering the above, and in the absence of any argument or explanation from the Respondent, the Panel finds no basis for a conclusion that the Respondent has rights or legitimate interests in the disputed domain name solely by virtue of the fact that "enterprise" is a dictionary word, and not only a trademark of the Complainant.

Based on the available record, the Panel therefore finds that the second element of the irDRP has been established.

C. Registered or Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the irDRP, paragraph 4(b) of the irDRP establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the absence of active use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the reputation of the Complainant's ENTERPRISE trademark, the fact that the disputed domain name is identical to it, the absence of active use of the disputed domain name and the notice that it is for sale, coupled with the failure of the Respondent to submit a response, to provide any evidence of actual or contemplated good-faith use of the disputed domain name or to refer to any plausible good faith use to which the disputed domain name may be put. Therefore, the Panel finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the irDRP.

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

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the irDRP and 15 of the Rules, the Panel orders that the disputed domain name <enterprise.ir> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: October 31, 2023