

## **ADMINISTRATIVE PANEL DECISION**

Delsey v. Mehdi Entezami mehr  
Case No. DIR2023-0014

### **1. The Parties**

The Complainant is Delsey, France, represented Domgate, France.

The Respondent is Mehdi Entezami mehr, Iran (Islamic Republic of).

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 24, 2023. On November 24, 2023, the Center transmitted by email to IRNIC a request for registrar verification in connection with the disputed domain name. On November 25, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 29, 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 December 5, 2023. The hard copies of the Complaint and the amended Complaint were received by the Center on December 11 and 18, 2023, respectively.

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 December 19, 2023. In accordance with the Rules, paragraph 5(a), the due date for Response was January 8, 2024. On January 9, 2024, the Center notified the Respondent’s default.

The Center appointed Marilena Comanescu as the sole panelist in this matter on January 11, 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 French company founded in 1946 by the impetus of three partners, its brand name being a combination of its founder's names. Currently the Complainant is one of the leading European and international premium luggage manufacturers. The Complainant sells its collections online and in more than 6,500 points of sale in over 110 countries, which are including the most prestigious departments stores worldwide, as well as in multi-brand boutiques and exclusive DELSEY stores. In 2022, the Complainant employed over 4,000 people worldwide, and has generated net global sales of EUR 207 million.

The Complainant holds numerous trademark registrations for DELSEY, such as the following:

- the Iranian Trademark Registration number 87125 for the mark DELSEY (word with device), registered on February 20, 1985, covering goods in Nice class 18; and
- the International Trademark registration number 638334 for the mark DELSEY (word with device), registered on June 26, 1995, covering goods in Nice class 18.

The Complainant has a strong presence online through its websites and various social-media platforms. The Complainant holds many domain names consisting of or containing DELSEY, such as <delsey.com> (the Complainant's international website selling goods to customers on five continents), <delsey.fr>, <delsey.ae>, or <delsey-iran.com>.

The disputed domain name was registered by the Respondent on November 1, 2021, and, at the time of filing the Complaint, it resolved to a commercial website, in Persian language, prominently displaying the Complainant's trademark and official product images, where purported DELSEY products were advertised and offered for sale, without any disclaimer.

According to Annex 11 to the Complaint, a reverse IP Whois search revealed that the Respondent registered at least another domain name reproducing the Complainant's DELSEY trademark and which resolves to the same website as that under the disputed domain name, as well as a domain name reflecting the trademark of a competitor of the Complainant.

#### **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 is identical to its well-known trademark DELSEY, company name and domain name; that the Respondent has no rights or legitimate interests in the disputed domain name; and that the Respondent registered and is using the disputed domain name in bad faith to redirect Internet users to a commercial website, displaying the Complainant's trademark and offering for sale *prima facie* counterfeit DELSEY branded products.

According to the evidence provided in Annex 11 to the Complaint, the Respondent is clearly engaged in a cybersquatting pattern of conduct.

## B. Respondent

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

## 6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (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 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

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7<sup>1</sup>.

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 Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available 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 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 such as those enumerated in the Policy or otherwise.

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<sup>1</sup> Given the similarities between the Policy and the Uniform Domain Name Resolution Policy ("UDRP"), the Panel finds it appropriate to refer to UDRP jurisprudence, including reference to the [WIPO Overview 3.0](#).

According to the evidence provided in the Complaint, the Respondent has used the disputed domain name in connection with a website promoting and purportedly offering for sale goods identical to those of the Complainant, reproducing the Complainant's trademark and official product images, without providing any disclaimer. Moreover, on the website linked to the disputed domain name, it is stated that "the delsey.ir website is the official representative of Delsey". Noting that the Respondent refers to the website as an "official representative", the Panel is of the opinion that the Respondent had the intention to impersonate the Complainant or confuse Internet users into believing that the website under the disputed domain name was authorized by the Complainant. Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Further, the composition of the disputed domain name carries a high risk of implied affiliation, being identical to the Complainant's mark. UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

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

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

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

In the present case, the Panel notes that the disputed domain name was registered in bad faith, with knowledge of the Complainant and its trademark particularly because it reproduces exactly the Complainant's mark, which predates the creation of the disputed domain name with more than 30 years and has acquired substantial reputation in the global luggage market. Furthermore, the use of the disputed domain name reinforces such finding.

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.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location" is evidence of registration and use in bad faith.

Given that the disputed domain name incorporates the Complainant's trademark exactly, and the website operated under the disputed domain name prominently displays the Complainant's trademark, official product images, purportedly offering Complainant's products for sale, indeed in this Panel's view, the Respondent has intended to attract Internet users accessing the website corresponding to the disputed domain name who may be confused and believe that the website is held, controlled by, or somehow affiliated with or related to the Complainant, for the Respondent's commercial gain. This activity may also disrupt the Complainant's business.

Paragraph 4(b)(ii) of the Policy provides another circumstance of bad faith registration and use when the respondent registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct. The Panel finds that registering at least two domain names incorporating the Complainant's trademark, as well as a third domain name reflecting a third party's trademark, can be considered a pattern of abusive conduct and registration of the disputed domain name in bad faith. [WIPO Overview 3.0](#), section 3.1.2.

Moreover, it has been consistently found by previous UDRP panels that the mere registration of a domain name that is identical or confusingly similar to a third party's famous or widely-known trademark can create, by itself, a presumption of bad faith for the purpose of Policy. [WIPO Overview 3.0](#), section 3.1.4.

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 <delsey.ir> be transferred to the Complainant.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: January 16, 2024