

ADMINISTRATIVE PANEL DECISION

Realme Chongqing Mobile Telecommunications Corp., Ltd. v.omid iranian internet bazar

Case No. DIR2023-0015

1. The Parties

The Complainant is Realme Chongqing Mobile Telecommunications Corp., Ltd., China, represented Thomsen Trampedach GmbH, Denmark.

The Respondent isomid iranian internet bazar, Islamic Republic of Iran.

2. The Domain Name and Registry

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 30, 2023. On December 4, 2023, the Center transmitted by email to IRNIC a request for registrar verification in connection with the disputed domain name. On December 5, 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 (Not Published) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 5, 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 amendment to the Complaint on December 5, 2023.

Hard copies of the Complaint were received by the Center on December 19, 2023.

The Center verified that the Complaint and the amendment to 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 December 20, 2023. In accordance with the Rules, paragraph 5(a), the due date for Response was January 9, 2024. The Respondent did not submit any response. On January 10, 2024, the Center notified the Respondent’s default.

The Center appointed Luca Barbero as the sole panelist in this matter on January 16, 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 Chinese smartphone manufacturer headquartered in Chongqing, also specialized in the production of a wide range of other products such as earphones, wireless earphones, t-shirts, bags, fitness bands, and smartwatches.

The Complainant is the owner of numerous trademark registrations for REALME in many jurisdictions, including the following:

- International trademark registration No. 1476237 for REALME (semi-figurative mark), designating also Islamic Republic of Iran, registered on March 4, 2019, in classes 18, 25, and 37;
- International trademark registration No. 1463252 for REALME (semi-figurative mark), designating also Islamic Republic of Iran, registered on March 4, 2019, in classes 9 and 35.

The Complainant is also the owner of the domain name <realme.com>, registered on October 17, 1997, and used by the Complainant to promote and offer for sale its products under the trademark REALME.

According to the information provided by the concerned Registry to the Center, the disputed domain name <realme.ir> was registered by the Respondent on January 29, 2023. The disputed domain name is pointed to a website in Persian, publishing the Complainant's REALME mark and offering for sale purported REALME products. The wording "our brand" is displayed at the bottom of the website and no disclaimer of non-affiliation with the Complainant is published on the homepage.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name <realme.ir> is confusingly similar to the trademark REALME in which the Complainant has rights.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name considering i) the Respondent registered the disputed domain name years after the Complainant obtained its rights in the REALME mark; ii) the Respondent has in no way been licensed, sponsored or authorized to use the Complainant's trademarks and is in no way affiliated to the Complainant; iii) the Respondent's use of the disputed domain name does not constitute a bona fide offering of goods or services as the Respondent has used the disputed domain name to impersonate the Complainant online and divert traffic from the Complainant's official website; and iv) the Respondent is not commonly known by the disputed domain name.

With reference to the circumstances evidencing bad faith, the Complainant indicates that, considering the Complainant has been using the trademark REALME continuously and extensively in connection with promotion of its products across the world, the Respondent registered the disputed domain name with full knowledge of the Complainant's trademark. The Complainant also asserts that, by using the Complainant's name and logo on the website to which the disputed domain name resolves, the Respondent has been portraying itself as a partner of the Complainant in the Islamic Republic of Iran, thus demonstrating that it had full knowledge of the Complainant's trademark.

The Complainant also states that the Respondent used the disputed domain name in bad faith by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of its website. The Complainant points out that the Respondent copied the design of the Complainant's website and failed to publish a disclaimer regarding its lack of affiliation with the Complainant, using also the wording "our brand" at the bottom of the homepage, and asserts that such use of the disputed domain name may give users the false impression that the disputed domain name and the correspondent website are licensed, sponsored, or otherwise approved by the Complainant.

The Complainant also submits that the Respondent's use of the disputed domain name, identical to the Complainant's trademark, cannot be regarded as in good faith use as it falsely indicates affiliation with the owner of the trademark.

Lastly, the Complainant informs the Panel that it sent a cease-and-desist letter to the Respondent via email, on November 27, 2023, requesting to cease any use of the disputed domain name, but never received a reply. The Complainant therefore concludes the Respondent's lack of reply further confirms its bad faith registration and use of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) that the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that 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 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 1.7¹.

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. Indeed, the Complainant has provided evidence of ownership of numerous trademark registrations for REALME (semi-figurative mark), including trademarks valid in the Respondent's jurisdiction (see Annex 3 to the Complaint).

The textual component of the Complainant's trademark is entirely reproduced within the disputed domain name without variations. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

¹ Given the similarities between the irDRP and the Uniform Domain Name Dispute Resolution Policy ("UDRP") and Rules for UDRP, the Panel finds UDRP precedent and [WIPO Overview 3.0](#) to be relevant to this case. See *Valeo v. seyedmehdi motallebi*, WIPO Case No. [DIR2023-0002](#).

Therefore, 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.

The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant’s trademark.

Moreover, there is no element from which the Panel could infer the Respondent’s rights and legitimate interests over the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

The disputed domain name is redirected to a website featuring the Complainant’s trademark and imitating the look and feel of the Complainant’s official website at “www.realme.com”, where purported REALME products are offered for sale. The Respondent also published the wording “our brand” at the bottom of the homepage and has not published any disclaimer apt to inform users as to its lack of affiliation with the Complainant. The Panel notes that the contents published on the Respondent’s website appear to be designed to reinforce the impression of an affiliation with the Complainant that, according to the records, does not exist.

In view of the above-described use of the disputed domain name, the Panel finds that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant’s trademark.

Moreover, prior Panels have held that the use of a domain name for illegal activity, such as impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Furthermore, the disputed domain name, being identical to the Complainant’s registered trademark, is inherently misleading and carries a high risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Therefore, 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 and use of a domain name in bad faith.

In the present case, the Panel notes that, in light of prior registration of the trademark REALME in several jurisdictions, including the Respondent's country, and considering the Complainant's prior use of the trademark REALME in connection with the promotion and sale of the Complainant's products also online via the Complainant's website "www.realme.com", the Respondent was aware of the Complainant's trademark at the time of registration of the disputed domain name.

Further, the circumstance that the disputed domain name, identical to the Complainant's prior registered trademark REALME and also to the Complainant's domain name <realme.com>, has been pointed to a website featuring the Complainant's trademark and offering for sale purported Complainant's products, suggests that the Respondent was indeed well aware of the Complainant's trademark and registered the disputed domain name to target the Complainant and its trademark.

In view of the use of the disputed domain name in connection with the website described above, imitating the Complainant's official website and failing to accurately and prominently disclose the Respondent's lack of relationship with the Complainant, the Panel finds that the Respondent intentionally attempted to attract Internet users to its website for commercial gain, by creating a likelihood of confusion with the trademark REALME as to the source, sponsorship, affiliation or endorsement of its website and the products offered therein according to paragraph 4(b)(iv) of the Policy.

The Panel also finds that the Respondent's failure to respond to the Complainant's cease-and-desist letter and to the Complaint can be considered additional evidence of its bad faith.

Therefore, the Panel finds that the Complainant has also established the third element 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, <realme.ir>, be transferred to the Complainant.

/Luca Barbero/

Luca Barbero

Sole Panelist

Date: January 30, 2024