

ADMINISTRATIVE PANEL DECISION

Autodesk, Inc. v. Mohammad Saeed Rezaee
Case No. DIR2023-0016

1. The Parties

The Complainant is Autodesk, Inc., United States of America (“United States”), represented Donahue Fitzgerald LLP, United States.

The Respondent is Mohammad Saeed Rezaee, Iran (Islamic Republic of).

2. The Domain Name and Registrar

The disputed domain name <autodeskiran.ir> (the “Domain Name”) is registered with IRNIC.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 14, 2023. Hard copies of the Complaint were received by the Center on December 20, 2023. On December 14, 2023, the Center transmitted by email to IRNIC a request for registrar verification in connection with the Domain Name. On December 14, 2023, IRNIC transmitted by email to the Center its verification disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Registrant of autodeskiran.ir domain name) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 19, 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 20, 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 28, 2023. In accordance with the Rules, paragraph 5(a), the due date for Response was January 17, 2024. The Respondent did not submit any response. Accordingly, on January 19, 2024, the Center notified the Respondent’s default.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on January 24, 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 software corporation that makes software products and services for the architecture, engineering, construction, manufacturing, media, education, and entertainment industries.

The Complainant is the owner of several AUTODESK trademark registrations, including:

- the United States Trademark Registration for AUTODESK No. 1316772, registered on January 29, 1985; and
- the United States Trademark Registration for AUTODESK No. 4080297, registered on January 3, 2012.

The Complainant is also the owner of the domain name <autodesk.com> incorporating its AUTODESK trademark.

The Domain Name was created on March 10, 2018. The Registry indicated that the Respondent registered the Domain Name on May 5, 2022.

As of the date of this Decision and at the time of submission of the Complaint, the Domain Name resolved to a website displaying information in Persian. The website has a header indicating “Dear user, your IP is not authorized and you are not able to view this content.”. The content of the website is restricted, an online support is offered (the “Website”). Moreover, the Website features information that “Autodesk Iran” is licensed by the Ministry of Industry, Mining and Trade of Iran and is subject to the laws of Iran.

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 Domain Name.

First, the Complainant submits that the Domain Name is identical or confusingly similar to the trademark in which the Complainant has rights.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the Domain Name.

Third, the Complainant contends that the Domain Name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy places a burden on the Complainant to prove the presence of three separate elements, which can be summarized as follows:

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

The requested remedy may only be granted if the above criteria are met. At the outset, the Panel notes that the applicable standard of proof is the “balance of probabilities” or “preponderance of the evidence”. See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”)¹.

A. Identical or Confusingly Similar

Under the first element, the Complainant must establish that the Domain Name is identical or confusingly similar to the trademark in which the Complainant has rights.

The Complainant holds valid AUTODESK trademark registrations. The Domain Name incorporates this trademark in its entirety. As numerous panels have held, incorporating a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to that trademark (see *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS COMPUTER INDUSTRY (a/k/a EMS)*, WIPO Case No. [D2003-0696](#)).

The addition of the term “iran” in the Domain Name does not prevent a finding of confusing similarity between the Domain Name and the Complainant’s AUTODESK trademark. Panels have consistently held that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See section 1.8, [WIPO Overview 3.0](#).

The country code Top-Level domain “.ir” in the Domain Name is viewed as a standard registration requirement and as such is usually disregarded under the first element test. See section 1.11.1 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the Domain Name is confusingly similar to the Complainant’s AUTODESK trademark for purposes of the Policy. Thus, the Complainant has satisfied the requirements under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the second element, the Complainant must prove that the Respondent has no rights or legitimate interests in the Domain Name.

The Respondent may establish a right or legitimate interest in the Domain Name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

- (i) that it has used or made demonstrable preparations to use the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services prior to any notice of the dispute; or
- (ii) that it has been commonly known by the Domain Name, even if it has not acquired any trademark rights; or

¹ Given the similarities between the irDRP and the Uniform Domain Name Dispute Resolution Policy (“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.

- (iii) that it is making a legitimate noncommercial or fair use of the Domain Name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

Although given the opportunity, the Respondent has not submitted any evidence indicating that any of the circumstances foreseen in paragraph 4(c) of the Policy are present in this case.

On the contrary, it results from the evidence on record that the Complainant's AUTODESK trademark registrations predate the Respondent's registration of the Domain Name. There is no evidence in the case record that the Complainant has licensed or otherwise permitted the Respondent to use the AUTODESK trademark or to register the Domain Name incorporating this trademark. There is also no evidence to suggest that the Respondent has been commonly known by the Domain Name.

Moreover, it results from the evidence on record that the Respondent does not make use of the Domain Name in connection with a bona fide offering of goods or services, nor does it make a legitimate noncommercial or fair use of the Domain Name. On the contrary, as of the date of this Decision, as well as at the time of submission of the Complaint, the Domain Name resolved to the Website in Persian displaying information that the access to the Website is restricted and offering online support. According to the Complainant, the content of the Website is not accessible outside of Iran. Moreover, the Website features information that "Autodesk Iran" is licensed by the Ministry of Industry, Mining and Trade of Iran and is subject to the laws of Iran. The Respondent came not forward with any evidence explaining this statement, and based on the Complainant's submission that no license was given to the Respondent, such misleading use of the Domain Name does not confer rights or legitimate interests on the Respondent.

Furthermore, the nature of the Domain Name carries a risk of implied affiliation. See section 2.5.1 of the [WIPO Overview 3.0](#).

Given the above, the Respondent has failed to invoke any circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in respect of the Domain Name. Thus, there is no evidence submitted by the Respondent that refutes the Complainant's prima facie case. The Panel concludes that the Complainant has also satisfied the requirement under paragraph 4(a)(ii) of the Policy.

C. Registered or Used in Bad Faith

Under the third element, the Complainant must prove that the Domain Name has been registered or is being used in bad faith.

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

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use includes without limitation:

- (i) circumstances indicating that the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of a trademark or to a competitor of that complainant, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the domain name was registered in order to prevent the owner of the trademark from reflecting the trademark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the domain name was registered primarily for the purpose of disrupting the business of the complainant; or

- (iv) circumstances indicating that the domain name has intentionally been used in an attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with the complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

As indicated above, the Complainant's rights in the AUTODESK trademark predate the registration of the Domain Name. This Panel finds that the Respondent was or should have been aware of the Complainant's trademark at the time of registration. This finding is supported by the content of the Website suggesting affiliation with the Complainant in Iran. Moreover, it has been proven to the Panel's satisfaction that the Complainant's AUTODESK trademark is well known and unique to the Complainant. Thus, the Respondent could not reasonably ignore the reputation of goods and services under this trademark. In sum, the Respondent in all likelihood registered the Domain Name with the expectation of taking advantage of the reputation of the Complainant's AUTODESK trademark.

Furthermore, the Domain Name has been used in bad faith by the Respondent to resolve to the Website. The Respondent presumably intended to earn profit from the confusion created among Internet users. In consequence, the Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Website.

Finally, the Complainant has proved that the Respondent has engaged in the pattern of bad faith conduct. Panel has found the abusive domain name registration on the part of the Respondent in the case *Autodesk, Inc. v. Mohammad Saeed Rezaee*, WIPO Case No. [DIR2022-0009](#), concerning the domain name <auto-desk.ir>.

For the reasons discussed above, the Panel finds that the Complainant has satisfied the requirements under 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 Domain Name <autodeskiran.ir> be transferred to the Complainant.

/Piotr Nowaczyk/

Piotr Nowaczyk

Sole Panelist

Date: February 6, 2024