

## **ADMINISTRATIVE PANEL DECISION**

Koninklijke Douwe Egberts B.V. v. Aida Ebrahimpour, Mrdomain,  
Vira Arvand Economics and Investment Co.  
Case No. DIR2022-0005

### **1. The Parties**

The Complainant is Koninklijke Douwe Egberts B.V., Netherlands, represented Ploum, Netherlands.

The Respondent is Aida Ebrahimpour, Vira Arvand Economics and Investment Co.,  
Iran (Islamic Republic of).

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

The disputed domain names <douweegberts.ir>, <jacobsdouweegberts.ir>, <maisonducafe.ir>, <pickwick.ir>, and <pilao.ir> (the “Domain Names”) are registered with IRNIC.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 16, 2022. On February 17, 2022, the Center transmitted by email to IRNIC a request for registrar verification in connection with the Domain Names. On February 19, 2022, 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 “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 March 1, 2022. In accordance with the Rules, paragraph 5(a), the due date for Response was March 21, 2022. On March 22, 2022, the Center notified the Respondent’s default.

The Center appointed Nicholas Smith as the sole panelist in this matter on April 12, 2022. 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 company located in the Netherlands that is part of the Jacobs Douwe Egberts group, which specializes in coffee and tea, with its coffee and tea portfolio being available for purchase in over 100 countries.

The Complainant holds trademarks ("Complainant's Marks") that correspond to each of the Domain Names, registered for various goods and services connected with coffee and tea including:

- European Union trademark for JACOBS DOUWE EGBERTS registered in 2014 (registration number 012852315);
- Brazilian trademark for PILAO SENSEO INTENSO registered in 2012 (registration number 840296398);
- French trademark for MAISON DU CAFÉ registered in 2000 (registration number 3010924);
- International trademark (designated for various jurisdictions) for DOUWE EGBERTS registered in 1996 (registration number 662378); and
- International trademark (designated for various jurisdictions) for PICKWICK registered in 1987 (registration number 518996).

The Domain Names <pilao.ir>, <douweegberts.ir> and <maisonducafe.ir> were registered on July 30, 2019; the Domain Name <pickwick.ir> was registered on December 24, 2010 and acquired by the Respondent on July 30, 2019; the Domain Name <jacobsdouweegberts.ir> was registered on May 14, 2014 and acquired by the Respondent on July 30, 2019. Each of the Domain Names is currently inactive but prior to the commencement of the proceeding resolved to essentially identical websites ("Respondent's Websites") that prominently advertised that the respective domain name was for sale for a sum that *prima facie* is larger than any out-of-pocket costs directly related to the Respondent's registration or acquisition of that domain name.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant makes the following contentions:

- (i) that the Domain Names are identical or confusingly similar to the Complainant's Marks;
- (ii) that the Respondent has no rights nor any legitimate interests in respect of the Domain Names; and
- (iii) that the Domain Names have been registered or are being used in bad faith.

The Complainant is the owner of the Complainant's Marks having registered the Complainant's Marks in various jurisdictions around the world. Each of the Domain Names contain one of the Complainant's Marks in its entirety. Hence the Domain Names are each identical or confusingly similar to the Complainant's Marks.

There are no rights or legitimate interests held by the Respondent in respect of the Domain Names. The Respondent is not commonly known as any of the Domain Names, nor does the Respondent have any authorization from the Complainant to register any of the Domain Names. The Respondent is not making a legitimate noncommercial or fair use of the Domain Names. Rather the Respondent simply offering Domain

Names for sale without any other use. Such use of the Domain Names can not and does not constitute *bona fide* commercial use, sufficient to legitimize any rights and interests the Respondent might have in the Domain Names and therefore Respondent has no rights or legitimate interests in the Domain Names under paragraph 4(c)(ii) of the Policy.

The Domain Names were registered and are being used in bad faith. The only possible motive held by the Respondent in registering the Domain Names is for the purpose of selling, renting, or otherwise transferring the Domain Names registration to the Complainant or to a competitor of that Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the Domain Names. The Domain Names were registered with the Complainant in mind, that they each correspond to a separate mark registered by the Complainant. The Respondent has engaged in a pattern of conduct, having been involved in four prior irDRP decisions wherein the Respondent has been found to have engaged in bad faith. Such conduct constitutes bad faith registration and use under paragraph 4(b)(i) of the Policy.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

To prove this element the Complainant must have trade or service mark rights and each of the Domain Names must be identical or confusingly similar to the Complainant's trade or service mark.

The Complainant is the owner of each of the Complainant's Marks, having registrations for the Complainant's Marks as a trade mark in various jurisdictions around the world.

Disregarding any elements of the trade mark not able to be reproduced in a domain name and the country-code Top-Level Domain ".ir" as a technical requirement of the domain name, the Domain Names <douweegberts.ir>, <jacobsdouweegberts.ir>, <maisonducafe.ir> and <pickwick.ir> are identical to the corresponding Complainant's Marks. The Domain Name <pilao.ir> reproduces the dominant portion of the Complainant's registered PILAO SENSEO INTENSO trademark and hence is confusingly similar to the Complainant's PILAO SENSEO INTENSO trade mark

The Panel finds that each of the Domain Names is identical or confusingly similar to one of the Complainant's Marks. Consequently, the requirement of paragraph 4(a)(i) of the Policy is satisfied.

### **B. Rights or Legitimate Interests**

To succeed on this element, a complainant must make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. If such a *prima facie* case is made out, then the burden of production shifts to the respondent to demonstrate rights or legitimate interests in the domain name.

Paragraph 4(c) of the Policy enumerates several ways in which a respondent may demonstrate rights or legitimate interests in a domain name:

"Any of the following circumstances, in particular but without limitation, if found by the panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii):

- (1) before any notice to you of the dispute, your use of, or 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; or

- (2) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (3) you are 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 or service mark at issue.” (Policy, paragraph 4(c)).

The Respondent is not affiliated with the Complainant in any way. It has not been authorized by the Complainant to register or use the Domain Names or to seek the registration of any domain name incorporating the Complainant's Marks or a mark similar to any of the Complainant's Marks. There is no evidence that the Respondent is commonly known by the Domain Names or any similar names. There is no evidence that the Respondent has used or made demonstrable preparations to use the Domain Names in connection with a legitimate noncommercial fair use or a *bona fide* offering of goods and services; the use of the Domain Names for a page advertising itself as being for sale, does not, in the absence of other evidence, amount to use for a *bona fide* offering of goods and services. Moreover, the identical replication of the Complainant's Marks in the respective four disputed domain names, without modification, carries high risk of implied affiliation, contrary to the fact, which cannot constitute fair use.

The Complainant has established a *prima facie* case that the Respondent lacks rights or interests in the Domain Names. The Respondent has had an opportunity to rebut the presumption that it lacks rights or legitimate interests but has chosen not to do so. The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Names under paragraph 4(a)(ii) of the Policy.

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

For the purposes of paragraph 4(a)(iii) of the Policy the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration or use of a domain name in bad faith:

- (i) “circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of the complainant; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.” (Policy, paragraph 4(b)).

The Panel finds that it is likely that the Respondent was aware of the Complainant and its reputation in the Complainant's Marks at the time each of the Domain Names was registered or acquired by the Respondent. It is improbable that a person would register or acquire five Domain Names that all incorporate the Complainant's Marks (or prominent elements of the Complainant's Marks) without having some awareness of the Complainant's mark rights. The Respondent has provided no explanation, nor is one apparent to the Panel, as to why an individual would register the Domain Names other than by reason of their resemblance to the Complainant's Marks. In the circumstances, the registration of the Domain Names in awareness of the Complainant's Marks and in the absence of rights or legitimate interests amounts to registration in bad faith.

At some point, either immediately after or shortly after the Domain Names were registered, the Respondent placed advertisements on the Respondent's Websites indicating that the Domain Names were for sale. The presence of an advertisement indicating that the Domain Names were for sale, along with the lack of any evidence supporting any other explanations as to the possible use of the Domain Names leads the Panel to conclude that the Respondent registered the Domain Names for the purpose of selling the Domain Names for an amount in excess of the out-of-pocket costs. Pursuant to 4(b)(i) of the Policy the Respondent has registered and used the Domain Names in bad faith.

Lastly, the Panel notes that the Respondent has been found to have engaged in bad faith behaviour with respect to the registration and use of domain names in at least four other instances before the Policy. Accordingly, along with the registration and use of the Domain Names, the Respondent has engaged in a pattern of conduct that reinforces the Panel's findings on bad faith. See, e.g., *AB Electrolux v. Aida Ebrahimpour, Mrdomain*, WIPO Case No. [DIR2020-0001](#); *Swiss Re Ltd v. Aida Ebrahimpour, Mrdomain*, WIPO Case No. [DIR2021-0021](#).

The Panel, while noting that the Policy only requires that a complainant show that a respondent registered or subsequently used the domain name at issue in bad faith, finds that the Respondent has registered and used the Domain Names in bad faith 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 Names <douweegberts.ir>, <jacobsdouweegberts.ir>, <maisonducafe.ir>, <pickwick.ir>, and <pilao.ir> be transferred to the Complainant.

/Nicholas Smith/  
**Nicholas Smith**  
Sole Panelist  
Date: April 21, 2022