

ADMINISTRATIVE PANEL DECISION

Tüv Nord AG v. Parsian Tuv Sarira
Case No. DIR2022-0022

1. The Parties

The Complainant is Tüv Nord AG, Germany, represented by Andreas Kammholz, Germany.

The Respondent is Parsian Tuv Sarira, Iran (Islamic Republic of).

2. The Domain Name and Registrar

The disputed domain name <tuvaca.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 9, 2022. On December 9, 2022, the Center transmitted by email to IRNIC a request for registrar verification in connection with the Domain Name. On December 13, 2022, the Complainant filed an amended Complaint. On December 20, 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 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 22, 2022. In accordance with the Rules, paragraph 5(a), the due date for Response was January 11, 2023. On January 12, 2023, the Center notified the Respondent’s default.

The Center appointed Ian Lowe as the sole panelist in this matter on January 19, 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 part of the TÜV Nord Group, based in Germany, founded in the 1860s. It comprises six international TÜV companies that are leading technical and verification service providers, operating throughout Europe and the Middle East. The Complainant (together with its associate trademark holding association) is the proprietor of a number of registered trademarks comprising TÜV including Germany trademark number 1005638 TÜV registered on July 28, 1980 and International trademark number 1260363 TÜV registered on November 6, 2014 designating 18 countries including Iran (Islamic Republic of).

The Domain Name was registered on December 8, 2020. It resolves to a website in the English and Persian language whose home page features a large “TUV” logo and the script:

“Parsian Tuv Sarira
Iran National Standard Organization (INSO)
Partner Training Center”

and

“Parsian Tuv Academy
National Training Center”

Using Google Translate, the website appears to offer a range of training courses on subjects such as quality management, change control, risk management and quality control.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its TÜV trademark, that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered and is using the Domain Name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

B. Respondent

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

6. Discussion and Findings

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the Domain Name is 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.

A. Identical or Confusingly Similar

The Complainant has uncontested rights in its TÜV trademark, both by virtue of its trademark registrations and as a result of its widespread use of the mark over very many years. Ignoring the country-code Top-Level Domain (“ccTLD”) “.ir”, the Domain Name comprises the entirety of the Complainant's TÜV trademark (save for the umlaut over the “U”) together with the letters “aca”. In the view of the Panel, these differences do not prevent a finding of confusing similarity between the Domain Name and the Complainant's mark. Accordingly, the Panel finds that the Domain Name is confusingly similar to a trademark in which the

Complainant has rights.

B. Rights or Legitimate Interests

The Complainant relies on the fact that its TÜV trademark is well known both in Europe and the Middle East and that its International trademark designates countries including Iran (Islamic Republic of). It also points to the fact that the Respondent is engaged in activities related to quality control, risk management, and the like that are identical to the services provide by the Complainant. On this basis, the Complainant maintains that the Respondent's use of its TÜV mark both in the Domain Name and in its name cannot support an argument that the Domain Name is being used for a *bona fide* offering of goods or services, but rather that the Respondent has knowingly adopted the TÜV mark in order to take unfair advantage of the Complainant's rights in the mark.

The Panel has reviewed the Respondent's website, including with the benefit of Google Translate operating on the Persian language text, and cannot see any obvious explanation for the Respondent's use of "TUV".

Although matters are finely balanced, the Panel finds that the Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent has never been authorised by the Complainant to use the TÜV mark.

In such circumstances, as section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") points out, "the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name". However, the Respondent has chosen not to respond to the Complaint to explain its registration or use of the Domain Name, or to take any other steps to counter the *prima facie* case established by the Complainant.

Accordingly, the Panel finds on balance that the Respondent does not have any rights or legitimate interests in respect of the Domain Name.

C. Registered and Used in Bad Faith

In light of the long term use of the TÜV mark by the Complainant and the use to which the Respondent has put the Domain Name for a website promoting services identical to those provided by the Complainant, as well as the Respondent prominently using the TÜV mark on its website, the Panel considers that the Respondent did have the Complainant and its rights in the TÜV mark in mind when it registered the Domain Name. The natural inference is that the Respondent registered the Domain Name for commercial gain with a view to taking unfair advantage of the Complainant's rights in the mark and to confuse Internet users into believing that the Domain Name was being operated by or authorized by the Complainant.

In the Panel's view, the use of the Domain Name for such activity, taking unfair advantage of the Complainant's rights in the TÜV mark with a view to commercial gain, amounts to paradigm bad faith registration and use for the purposes of the Policy, paragraph 4(b)(iv).

Accordingly, the Panel finds that the Domain Name has been registered and is being used in bad faith.

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 <tuvaca.ir> be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: February 2, 2023