

ADMINISTRATIVE PANEL DECISION

Valeo v. seyedmehdi motallebi

Case No. DIR2023-0002

1. The Parties

The Complainant is Valeo, France, represented Tmark Conseils, France.

The Respondent is seyedmehdi motallebi, Iran (Islamic Republic of).

2. The Domain Name and Registrar

The disputed domain name <valeo724.ir> (the “Disputed Domain Name”) is registered with IRNIC.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 1, 2023. On February 1, 2023, the Center transmitted by email to IRNIC a request for registrar verification in connection with the Disputed Domain Name. On February 7, 2023, 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 February 9, 2023. In accordance with the Rules, paragraph 5(a), the due date for Response was March 1, 2023. On March 2, 2023, the Center notified the Respondent’s default.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on March 14, 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 a company incorporated and registered in the Trade and Companies Register of Paris on February 25, 1955. It is an automotive supplier and partner to automakers worldwide, which designs solutions for smart mobility and distributes spare parts to automakers and independent aftermarket operators.

The Complainant is the owner of a number of trademark registrations for VALEO in various countries, including French Trademark Registration No. 1336045 in Classes 1, 2, 3, 4, 6, 7, 9, 11, 12, 14, 16, 17, 25, 28, 35, 37, 38, 39, and 41 registered on December 23, 1985 (the "Complainant's Trademark"). The Complainant also claims that the filing date of its oldest registration for the Complainant's Trademark is April 14, 1966 in France. The Complainant's Trademark is fully incorporated in its registered company name and its domain name, <valeo.com> created on March 25, 1997 (the "Complainant's Domain Name") that resolves to the Complainant's official website.

The Disputed Domain Name was created on February 10, 2022.

The Disputed Domain Name resolves to a webpage "www.valeo724.ir" (the "Website") offering automotive goods and/or services under the Complainant's Trademark.

5. Parties' Contentions

A. Complainant

The Complainant's primary contentions can be summarized as follows:

- (a) The Disputed Domain Name is identical or confusingly similar to the Complainant's Trademark. The Complainant's Trademark is reproduced in its entirety in the Disputed Domain Name. Apart from the Complainant's Trademark, the Disputed Domain Name contains the numbers "724" as well as the ccTLD extension ".ir". The extension gives the general impression that the Website is the official VALEO website of the Complainant in Iran. The extension does not serve to distinguish the Disputed Domain Name from the Complainant's Trademark, and shall be disregarded when considering whether it is confusingly similar to the Complainant's Trademark.
- (b) The Respondent has no rights or legitimate interests in the Disputed Domain Name. There is no evidence showing that the Respondent is commonly known as "valeo", "valeo724" or the Complainant's Trademark. The Respondent has not obtained any authorization from the Complainant to use the Complainant's Trademark as part of a domain name. Furthermore, the Respondent has offered automotive goods and/or services on the Website under the Complainant's Trademark without the Complainant's authorization. By using the Disputed Domain Name, the Respondent is taking commercial advantage of the reputation of the Complainant's Trademark, which cannot be considered as legitimate non-commercial or fair use without the intent for commercial gain.
- (c) The Respondent has registered and is using the Disputed Domain Name in bad faith. Given the reputation and goodwill that the Complainant has acquired in the Complainant's Trademark in the course of the long history of the Complainant's business, the Respondent must have been fully aware of the existence of the Complainant's rights in the Complainant's Trademark when the Respondent registered the Disputed Domain Name. Moreover, the Respondent uses the Disputed Domain Name to divert Internet users to the Website, with the aim of disrupting the Complainant's business by misleading the public into believing that the Complainant is associated with the Website. Furthermore, it is noted that email servers have been configured at the Disputed Domain Name, which may indicate that the Respondent intends to engage in or has engaged in a phishing scheme by sending emails from email addresses that bear the Disputed Domain Name. In view of the above, the Respondent has registered and is using the Disputed Domain Name in bad faith.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (i) The Disputed 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 Disputed Domain Name; and
- (iii) The Disputed Domain Name has been registered or is being used by the Respondent in bad faith.

A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the Complainant's Trademark based on the trademark registration listed above in Section 4.

It is well established that in making an enquiry as to whether a trademark is identical or confusingly similar to a domain name, the ccTLD extension, ".ir" in this case, may be disregarded. See section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").¹

The Disputed Domain Name incorporates the Complainant's Trademark in its entirety with the addition of the numbers "724" after the Complainant's Trademark. UDRP panels have consistently found that the addition of other terms to a mark (whether descriptive, geographical, pejorative, meaningless or otherwise) will not alter the fact that the domain name is confusingly similar to the mark in question. See section 1.8 of the [WIPO Overview 3.0](#). The Panel therefore finds that the mere addition of the numbers "724" is not sufficient to prevent a finding of confusing similarity between the Disputed Domain Name and the Complainant's Trademark.

As such, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's Trademark, and accordingly, paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Once a complainant establishes a *prima facie* case in respect of the lack of rights or legitimate interests of a respondent in a disputed domain name, the respondent then carries the burden of demonstrating that it has rights or legitimate interests in the disputed domain name. Where the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See section 2.1 of the [WIPO Overview 3.0](#).

The Panel accepts that the Complainant has not authorized the Respondent to use the Complainant's Trademark. There is no relationship between the Complainant and the Respondent which would otherwise entitle the Respondent to use the Complainant's Trademark. Accordingly, the Panel is of the view that a *prima facie* case has been established by the Complainant and it is for the Respondent to show that it has rights or legitimate interests in the Disputed Domain Name.

¹ Noting the substantive similarities between the Policy and the Uniform Domain Name Dispute Resolution Policy ("UDRP"), the Panel has referred to UDRP case law and analysis, where appropriate.

The Respondent did not submit a formal Response. The fact that the Respondent did not submit a formal Response does not automatically result in a decision in favor of the Complainant. However, the Respondent's failure to file a formal Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complainant as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#); and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the Disputed Domain Name by demonstrating any of the following:

- (i) Before any notice to him of the dispute, the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) The Respondent has been commonly known by the Disputed Domain Name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) The Respondent is making a legitimate non-commercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel agrees with the Complainant that there is no evidence to show that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent has become known by the Disputed Domain Name.

There is no evidence to suggest that the Respondent's use is in connection with a *bona fide* offering of goods or services. The goods and/or services offered on the Website are clearly unauthorized by the Complainant and seek to take unfair advantage of the Complainant's Trademark and reputation (see *Prada S.A. v. Chen Mingjie*, WIPO Case No. [D2015-1466](#); *Valentino S.p.A. v. Qiu Yufeng, Li Lianye*, WIPO Case No. [D2016-1747](#)). Even if the products and/or services on the Website were genuine, the Website does not display any disclaimer of a lack of relationship between the Complainant and the Respondent. On the contrary, it is stated on the Website that "Valeo724 is a specialized importer of Valeo clutch kits in Iran". The Panel also notes that based on the content of the Website, including the use of the Complainant's Trademark, and the photographs of the Complainant's products and exhibition booths, it is unclear to Internet users visiting the Website that it is not operated by the Complainant. Accordingly, the Panel agrees with the Complainant that the Respondent's use of the Disputed Domain Name cannot constitute a *bona fide* offering of goods and/or services, or be regarded as legitimate non-commercial or fair use. In particular, the Respondent would likely not have registered a domain name including the Complainant's Trademark, if not for the purpose of creating an impression that the Website and the goods and/or services offered on the Website are associated with the Complainant, or otherwise taking advantage of the goodwill and reputation in the Complainant's Trademark.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered or Used in Bad Faith

UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar to a widely-known trademark by an unaffiliated entity can already by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

After reviewing the supporting evidence submitted by the Complainant, the Panel agrees with the Complainant that the Complainant's Trademark appears to be well known. A quick Internet search conducted by the Panel shows that the top search results returned for the keyword "valeo" are the Complainant's websites and third-party websites providing information about the Complainant and/or its

products and/or services. Therefore, the Panel agrees that the Respondent must have been aware of the Complainant and its rights in the Complainant's Trademark when registering the Disputed Domain Name.

The Panel also agrees with the Complainant that the following factors support a finding that the Disputed Domain Name has been used by the Respondent in bad faith:

- (i) The Respondent has been using the Disputed Domain Name to mislead and divert Internet users to the Website for commercial gain by creating a likelihood of confusion with the Complainant's Trademark as to the source, the Complainant's sponsorship, affiliation, or endorsement of the Website. See paragraph 4(b)(vi) of the Policy and section 3.1 of the WPO Overview 3.0; and
- (ii) It is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that the Disputed Domain Name is confusingly similar to the Complainant's Trademark and that the Website has been used to sell unauthorized VALEO products and/or services.

The Panel also notes that the Respondent failed to respond to the Complainant's contentions and has provided no evidence of any actual or contemplated good faith use of the Disputed Domain Name. This further supports a finding of bad faith registration and use of the Disputed Domain Name.

In the circumstances, the Panel finds that the Respondent registered and has been using the Disputed Domain Name in bad faith, and paragraph 4(a)(iii) of the Policy has been satisfied.

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 <valeo724.ir> be transferred to the Complainant.

/Gabriela Kennedy /

Gabriela Kennedy

Sole Panelist

Date: March 24, 2023