

ADMINISTRATIVE PANEL DECISION

Tefal v. hossein gholamrezaei

Case No. D2022-4356

1. The Parties

Complainant is Tefal, France, represented by CSC Digital Brand Services Group AB, Sweden.

Respondent is hossein gholamrezaei, Tajikistan.

2. The Domain Name and Registrar

The disputed domain name <tefal-iran.com> is registered with 1API GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 16, 2022. On November 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 17, 2022, the Registrar 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 and contact information in the Complaint. The Center sent an email communication to Complainant on November 17, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on November 21, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on November 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 12, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on December 13, 2022.

The Center appointed Marina Perraki as the sole panelist in this matter on December 21, 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

Complainant is a French cookware and small appliance manufacturer, initially created in 1956 by engineer Marc Grégoire. Complainant is known for its revolutionary non-stick cookware. The name “Tefal” derives from the words “TEFlon” and “ALuminium” and is therefore a highly distinctive made up word.

Complainant is the owner of trademark registrations across various jurisdictions, including

- the International trademark registration no. 1109645, TEFAL (word), registered on January 31, 2012, for goods and services in international classes 1, 3, 5, 7, 9, 11, 28, 29, 30, 32, 38, 40, 41 and 42; and
- the French trademark registration no. 1517514, TEFAL (word), filed and registered on March 3, 1989, for goods and services in international classes 8, 9, 11, 21, 22, and 28.

Complainant also owns various domain names for TEFAL, including <tefal.fr> and <tefal.com>. According to SimilarWeb.com, Complainant’s primary domain name <tefal.fr> ranks 174th in its category. Complainant’s website also received an average of 218 thousand visits in September 2022.

The Domain Name was registered on February 10, 2022, and leads to a website (the “Website”) in Persian, mimicking that of Complainant, using Complainant’s copyrighted trademark, logo, and product images and offering for sale seemingly Tefal branded goods.

5. Parties’ Contentions

A. Complainant

Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for the transfer of the Domain Name.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Complainant has demonstrated rights through registration and use of the TEFAL mark.

The Panel finds that the Domain Name is confusingly similar to the TEFAL trademark of Complainant.

The Domain Name incorporates the said trademark of Complainant in its entirety. This is sufficient to establish confusing similarity (*Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#)).

The geographical term “iran” and the hyphen which are added in the Domain Name do not alter the above (*BHP Billiton Innovation Pty Ltd v. Oloyi*, WIPO Case No. [D2017-0284](#); *Accenture Global Services Limited v. Jean Jacques / Luck Loic*, WIPO Case No. [D2016-1315](#); *Wragge Lawrence Graham & Co LLP v. Registration Private, Domains by Proxy LLC / Ian Piggitt*, WIPO Case No. [D2015-0135](#); WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8).

The generic Top-Level Domain (“gTLD”) “.com” is also disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are generally required for technical reasons.

Complainant has established Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

(i) before any notice to Respondent of the dispute, Respondent’s 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

(ii) Respondent (as an individual, business, or other organization) has been commonly known by the Domain Name, even if it has acquired no trademark or service mark rights; or

(iii) Respondent 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 or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name.

Respondent has not submitted any response and has not claimed any such rights or legitimate interests with respect to the Domain Name. As per Complaint, Respondent was not authorized to register the Domain Name.

Prior to the notice of the dispute, Respondent did not demonstrate any use of the Domain Name or a trademark corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

On the contrary, as Complainant demonstrated, the Domain Name resolved at the time of filing of the Complaint to the Website, which suggested falsely that it is of an affiliated entity or of an authorized partner of Complainant.

Per Complaint, Respondent is not an affiliated entity or an authorized distributor or reseller of Complainant and no agreement, express or otherwise, exists allowing the use of Complainant’s trademarks on the Website and the use of the Domain Name by Respondent.

A distributor or reseller can be making a *bona fide* offering of goods and thus have a legitimate interest in a domain name only if the following cumulative requirements are met (*Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#); [WIPO Overview 3.0](#), section 2.8.1: (i) respondent must actually be offering the goods at issue; (ii) respondent must use the site to sell only the trademarked goods; (iii) the site must accurately and prominently disclose the registrant’s relationship with the trademark holder; and (iv) respondent must not try to “corner the market” in domain names that reflect the trademark.)

These requirements are not cumulatively fulfilled in the present case. The Domain Name falsely suggests that the Website is an official site of Complainant or of an entity affiliated to or endorsed by Complainant. The Website extensively reproduces Complainant’s trademark, creating the impression of being a Website of Complainant for the Islamic Republic of Iran (or of an entity affiliated with Complainant) without any disclaimer of association (or lack thereof) with Complainant.

In addition, the nature of the Domain Name, comprising Complainant's trademark in its entirety, carries a risk of implied affiliation ([WIPO Overview 3.0](#), section 2.5.1). The use of a domain name which intentionally trades on the fame of another and suggests affiliation with the trademark owner cannot constitute a *bona fide* offering of goods or services (*Madonna Ciccone, p/k/a Madonna v. Dan Parisi and "Madonna.com"*, WIPO Case No. [D2000-0847](#); [WIPO Overview 3.0](#), section 2.5.3).

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name.

Complainant has established Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation", are evidence of the registration and use of the Domain Name in "bad faith":

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) Respondent has 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 Respondent has engaged in a pattern of such conduct; or
- (iii) Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith. As per Complaint, Complainant's TEFAL trademark is well known for cookware. Furthermore, "tefal" is a fictitious word. Because the TEFAL mark had been widely used and registered at the time of the Domain Name registration by Respondent, the Panel finds it more likely than not that Respondent had Complainant's mark in mind when registering the Domain Name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#); *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#)).

As regards to bad faith use of the Domain Name, Complainant has demonstrated that the Domain Name was used to resolve to the Website, which gave the false impression that it is operated by Complainant or a company affiliated to Complainant or an authorized dealer of Complainant. The Domain Name operated therefore by intentionally creating a likelihood of confusion with Complainant's trademark and business as to the source, sponsorship, affiliation or endorsement of the website it resolves to. This can be used in support of bad faith registration and use ([WIPO Overview 3.0](#), section 3.1.4).

The Panel considers the following factors: (i) the reputation of Complainant's mark, (ii) the failure of Respondent to submit a response, (iii) the fact that the Website displayed Complainant's trademark and product images, along with unauthorized seemingly TEFAL branded products (iii) the fact that Respondent did not reply to the cease and desist letters of Complainant and (v) the implausibility of any good faith use to which the Domain Name may conceivably be put, given that, as Complainant has demonstrated, the Domain Name resolved to the Website which gave the false impression that it was operated by Complainant or an official retailer of Complainant.

Last, the Panel notes that, per Complainant, Respondent currently holds registrations for several other domain names that misappropriate the trademarks of well-known brands and businesses.

Under these circumstances and on this record, the Panel finds that Respondent has registered and is using the Domain Name in bad faith.

Complainant has established Policy, paragraph 4(a)(iii).

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, <tefal-iran.com>, be transferred to Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: January 4, 2023