

ADMINISTRATIVE PANEL DECISION

Philip Morris Products S.A. v. Emon XII, Suntur
Case No. D2024-4486

1. The Parties

The Complainant is Philip Morris Products S.A., Switzerland, represented by D.M. Kisch Inc., South Africa.

The Respondent is Emon XII, Suntur, United Arab Emirates.

2. The Domain Name and Registrar

The disputed domain name <iqosilumaterea.com> (the “Disputed Domain Name”) is registered with Instra Corporation Pty Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 31, 2024. On October 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On October 31, 2024, 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 (Private Registration / Redacted for Privacy, TEREA Stick Dubai) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 6, 2024, 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 amended Complaint on November 7, 2024. The Respondent sent an informal email communication on November 7, 2024. The Complainant requested a suspension of the proceedings on November 14, 2024, and the proceedings were suspended the same day. The Complainant requested a reinstitution of the proceedings on February 7, 2025, and the proceedings were reinstituted on February 10, 2025.

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 the Respondent of the Complaint, and the proceedings commenced on February 12, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 4, 2025. The Center notified the Parties that it

commenced the panel appointment process on March 11, 2025.

The Center appointed Colin T. O'Brien as the sole panelist in this matter on March 18, 2025. 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 leading international tobacco and smoke-free products company. The Complainant has created a tobacco heating system called IQOS into which specially designed tobacco sticks under the brand names "HEETS", "HeatSticks", "DELIA", "LEVIA" or "TEREA" are inserted and heated to generate a nicotine containing aerosol. The IQOS system has been almost exclusively distributed through the Complainant's official IQOS stores and websites and selected authorized distributors and retailers.

The Complainant owns the following trademark registrations:

United Arab Emirates IQOS stylized Registration No. 305079 registered on June 27, 2019;

United Arab Emirates HEETS (word) Registration No. 256864 registered on December 25, 2017;

International Registration ILUMA (word) No. 1764390 registered on October 12, 2023, designating inter alia Afghanistan, Botswana, Cabo Verde, Iran (Islamic Republic of), Jamaica, Lao People's Democratic Republic, Malawi, Mauritius, Mexico, Mongolia, Mozambique, Syrian Arab Republic, Tajikistan, Turkmenistan, Zimbabwe; and

International Registration TEREА (word) No. 1765887 registered on October 19, 2023, designating inter alia Afghanistan, Botswana, Cabo Verde, Iran (Islamic Republic of), Jamaica, Kenya, Lao People's Democratic Republic, Malawi, Mauritius, Mongolia, Mozambique, Syrian Arab Republic, Tajikistan, Turkmenistan, Zimbabwe.

The Disputed Domain Name was registered on July 12, 2024.

The Disputed Domain Name resolved to a website that offered for sale the Complainant's products as well as products of competitors of the Complainant.

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 Disputed Domain Name.

The Complainant is the registered owner of the IQOS, ILUMA and TEREА trademarks in numerous jurisdictions, including, but not limited to the United Arab Emirates. The Disputed Domain Name identically adopts the Complainant's IQOS, ILUMA and TEREА trademarks.

Any Internet user when visiting a website provided under the Disputed Domain Name <iqosilumaterea.com> will reasonably expect to find a website commercially linked to the owner of the IQOS, ILUMA and TEREА trademarks. This unlawful association is exacerbated by the use of the Complainant's official product images and marketing materials without the Complainant's authorization. Therefore, the first element of the UDRP is met.

The Complainant has not licensed or otherwise permitted the Respondent to use any of its trademarks or to register a domain name incorporating its IQOS, ILUMA and TEREА trademarks (or a domain name which will be associated with these trademarks).

The Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name. On the contrary, the Respondent's behavior shows a clear intent to obtain an unfair commercial gain, with a view to misleadingly diverting consumers or to tarnish the trademarks owned by the Complainant. Firstly, the Respondent is not an authorized distributor or reseller of the IQOS system. Secondly, the website is selling competing tobacco products and/or accessories of other commercial origin. Thirdly, the website provided under the Disputed Domain Name does not meet the requirements set out by numerous panel decisions for a bona fide offering of goods.

The Respondent is not only offering the Complainant's products but also competing tobacco products and accessories of other commercial origin.

The website further uses the Complainant's official product images and marketing materials without authorization, while at the same time falsely claiming copyright in this material. This illegitimate and false claim of rights in the Complainant's official copyright protected material further supports the false impression, that the website is endorsed by the Complainant, which is not the case.

It is evident from the Respondent's use of the Disputed Domain Name that the Respondent knew of the Complainant's IQOS, ILUMA and TEREА trademarks when registering the Disputed Domain Name. The Respondent started offering the Complainant's IQOS system immediately after registering the Disputed Domain Name. Furthermore, the terms IQOS, ILUMA and TEREА are purely imaginative terms and unique to the Complainant. The terms IQOS, ILUMA and TEREА are not commonly used to refer to tobacco products or electronic devices. It is therefore beyond the realm of reasonable coincidence that the Respondent chose the Disputed Domain Name, without the intention of invoking a misleading association with the Complainant.

It is also evident from the Respondent's use of the Disputed Domain Name that the Respondent registered and used the Disputed Domain Name with the intention to attract, for commercial gain, Internet users to the website by creating a likelihood of confusion with the Complainant's registered IQOS, ILUMA and TEREА trademarks as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location, which constitutes registration and use in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated it owns registered trademark rights in its IQOS, ILUMA and TEREА trademarks. The Top-Level Domain ".com" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. The Disputed Domain Name which incorporates in their entirety the three marks in which the Complainant has rights has resulted in the registration of a confusingly similar domain name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 1.7 and 1.11.1, and *F. Hoffmann-La Roche AG v. Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org / Conan Corrigan*, WIPO Case No. [D2015-2316](#).

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has presented a prima facie case that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and has not been commonly known by the Disputed Domain Name.

The fact that the Respondent obtained the Disputed Domain Name after the Complainant had begun using its IQOS, ILUMA and TEREА trademarks and offered for sale the Complainant's products under these trademarks indicates that the Respondent likely knew of the Complainant and its IQOS, ILUMA and TEREА trademarks.

After a complainant has made a prima facie case, the burden of production shifts to a respondent to present evidence demonstrating rights or legitimate interests in the domain name. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

The evidence provided by the Complainant shows that the Disputed Domain Name resolved to a website seemingly implying an endorsement from the Complainant by featuring the Complainant's trademarks and product images and claiming to offer the Complainant's products along with competing third-party products. The Panel notes that, according to the evidence provided in the Complaint, the website associated with the disputed domain name included the following notice in the "Terms and Conditions" section: "Please be aware that certain products sold on our website, including but not limited to those copyrighted by PMI & IQOS, are not affiliated with or endorsed by PMI & IQOS. Terea Stick Dubai is an independent entity with no direct relationship with PMI & IQOS." The Panel is of the view that the presence of a disclaimer does not render the Respondent's activities bona fide under the Policy. While resellers and distributors may have limited rights to use a complainant's trademark for nominative purposes, the lack of any authorization by the Complainant, the lack of a sufficiently prominent disclaimer on the website connected to the Disputed Domain Name as to the website's lack of authorization or relation to the Complainant, and the fact that competing third-party products are also offered for sale on the website, renders any fair use safe haven inapplicable in this instance. See section 2.8 of the [WIPO Overview 3.0](#).

In the absence of any evidence rebutting the Complainant's prima facie case indicating the Respondent's lack of rights or legitimate interests in respect of the Disputed Domain Name, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the Complainant has satisfied its burden of proof in establishing the Respondent's bad faith in registration and use of the Disputed Domain Name. Paragraph 4(b)(iv) of the Policy states that evidence of bad faith may include a respondent's use of a domain name to intentionally attempt to attract Internet users for commercial gain to its own website.

Due to the fact that the Disputed Domain Name included the IQOS, ILUMA and TEREА trademarks of the Complainant and the subsequent use of the Disputed Domain Name, it is inconceivable that the Respondent registered the Disputed Domain Name incorporating the Complainant's trademarks without knowledge of the Complainant. The Disputed Domain Name was used for a website that allegedly sold the Complainant's products, but the Complainant has established that the Respondent's use was not authorized, nor is the Respondent affiliated with the Complainant in any way nor was the Respondent's use otherwise bona fide under the Policy. The facts establish a deliberate effort by the Respondent to cause confusion with the Complainant for commercial gain. Under these circumstances, the Panel concludes that the Disputed Domain Name was registered and 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 disputed domain name <iqosilumaterea.com> be transferred to the Complainant

/Colin T. O'Brien/

Colin T. O'Brien

Sole Panelist

Date: April 1, 2025