

## **ADMINISTRATIVE PANEL DECISION**

Philip Morris Products S.A. v. Viktor Molnar, Goldhands Srl  
Case No. D2024-5128

### **1. The Parties**

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

The Respondent is Viktor Molnar, Goldhands Srl, Romania.

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

The disputed domain names <iqos-rendeles.click> and <iqos-rendeles.pro> is registered with Spaceship, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 12, 2024. On December 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 16, 2024, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 18, 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 December 27, 2024.

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 December 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 19, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 20, 2025.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on January 23, 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 following facts are undisputed.

The Complainant is a Swiss company and affiliated to Philip Morris International, Inc., an international tobacco and smoke-free products company, with products sold in approximately 180 countries.

The Complainant's group has developed a tobacco heating system called IQOS. IQOS is a precisely controlled heating device into which specially designed tobacco sticks under the brand names HEETS, "HeatSticks", "DELIA", "LEVIA" or "TEREA", are inserted and heated to generate a flavorful nicotine-containing aerosol (collectively referred to as the "IQOS Product"). The IQOS Product was first launched by the Complainant in Japan in 2014 and is now available in around 84 markets across the world. To date, the IQOS Product has been almost exclusively distributed through the Complainant's official IQOS stores and websites and selected authorized distributors and retailers.

The Complainant owns a large portfolio of well-known trademark registrations, including but not limited to the following registrations for the IQOS mark:

- the European Union trademark registration (word) with a registration number 010636611 filed on February 12, 2012, and with a registration date of June 20, 2012, for goods and services in classes 9 and 42;
- the International Trademark Registration (word mark) with a registration number 1218246 registered on July 10, 2014 for goods and services in classes 9, 11 and 34;

The Complainant is also the owner of the domain name <iqos.com> registered on April 25, 1997, which resolves to a website where the Complainant advertises its products (the "Complainant's Official Website").

The disputed domain names were registered on October 22, 2024. The disputed domain name <iqos-rendeles.click> redirects to the disputed domain name <iqos-rendeles.pro> which resolves to an online shop in Hungarian displaying the Complainant's IQOS mark and official IQOS Product images and allegedly selling and offering the IQOS Product. The website also contained links redirecting to the Complainant's official site.

#### **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 names.

Notably, to the extent relevant, the Complainant contends the following. The Complainant has reason to believe that the Respondent or the person behind the Respondent indicated in the Whois information, is the same person, or is connected to the same person who was the respondent in previous UDRP complaints filed by the Complainant, in *Philip Morris Products S.A. v. Host Master, 1337 Services LLC*, WIPO Case No. [D2019-2244](#), and *Philip Morris Products S.A. v. Viktor Molnar, Goldhands Srl*, WIPO Case No. [D2024-3978](#), in relation to the bad faith registration and use of inter alia the domain names <iqos-rendeles.com> and <iqos-rendeles.info>.

The disputed domain names are confusingly similar to the IQOS mark as they reproduce the trademark in its entirety with the mere addition of the non-distinctive and descriptive word “rendeles” (meaning “order” in Hungarian) and the generic Top-Level Domains (“gTLDs”) “.click” and “pro”. The Internet user will reasonably expect to find a website to which the disputed domain names resolve (redirect) commercially linked to the Complainant. This unlawful association is exacerbated by the use of the Complainant’s official product images and marketing materials without the Complainant’s authorization, as well as the fact that the hyperlinks offered on the website redirect to one to the Complainant’s official websites.

The Respondent has no rights or legitimate interests in the disputed domain names. There is no evidence that the Respondent is commonly known by the disputed domain names. Also, the Complainant has not authorized, by license or otherwise, the Respondent to register and/or use the disputed domain names. Further, the Respondent’s use of the disputed domain names cannot be considered a bona fide offering of goods or services, nor a legitimate noncommercial or fair use. The Respondent is not an authorized distributor or reseller of the IQOS Product.

The Respondent has not used the disputed domain names in connection with a bona fide offering of goods or services as the requirements set forth in *Okidata Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) (“Okidata”) were not met, considering the disputed domain names in themselves suggest an affiliation with the Complainant and its trademarks, the Respondent prominently used the Complainant’s trademarks and copyrighted images without authorization whilst failing to properly disclose identity of the website operator and its lack of relationship with the Complainant on the website corresponding to the disputed domain names.

The Respondent has engaged in bad faith. The Respondent registered, with knowledge of the existence of the Complainant and the Complainant’s trademark, the confusingly similar disputed domain names to intentionally attract for commercial gain Internet users to the website to which the disputed domain names resolve/redirect. The Respondent is targeting the Complainant to mislead the public into believing that the Respondent’s business is affiliated with the Complainant.

The Respondent knew of the IQOS mark at the time of registration of the disputed domain names considering i) the term IQOS encompassed in the disputed domain names is purely an imaginative term and unique to the Complainant and is not commonly used to refer to tobacco products or electronic devices, and ii) the Respondent started offering the Complainant’s IQOS Product immediately after registering the disputed domain names.

By publishing the Complainant’s trademarks and marketing materials, along with a copyright notice claiming copyright for the website and its contents and links to the Complainant’s official website, the Respondent registered and used the disputed domain names with the intention of attracting, for commercial gain, Internet users to its website, by creating a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of its website.

The Respondent has deliberately engaged in a pattern of conduct as it registered disputed domain names before which were involved in prior UDRP proceedings concluded with the transfer of the domain name to the Complainant. The Complainant concludes that the Respondent’s use of a privacy protection service to hide its true identity further demonstrates the Respondent’s bad faith.

## **B. Respondent**

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

## 6. Discussion and Findings

The present proceedings involve the Complainant bringing a single Complaint relating to two disputed domain names against a single Respondent. The Panel is satisfied that both disputed domain names are registered by the Respondent.

### A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within each of the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "rendeles" in the disputed domain names may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Moreover, the gTLDs ".click" and ".pro" can be disregarded under the first element confusing similarity test, being a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds the first element of the Policy has been established.

### B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant's trademarks. Moreover, there is no element from which the Panel could infer the Respondent's rights over the disputed domain names, or that the Respondent might be commonly known by the disputed domain names.

The Panel concurs with the Complainant that the Respondent's use of the disputed domain names does not meet the requirements for a reseller or distributor to be making a bona fide offering of goods or services under a domain name incorporating a third-party trademark.

According to section 2.8.1 of the [WIPO Overview 3.0](#), "resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a bona fide offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the 'Oki Data test', the following cumulative requirements will be applied in the specific conditions of a UDRP case:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
- (iv) the respondent must not try to 'corner the market' in domain names that reflect the trademark".

In the case at hand, at least the third condition is not met since the Respondent has pointed the disputed domain names to the website advertising and offering for sale the Complainant's tobacco products and accessories without publishing an accurate and prominent disclaimer aimed at informing users about its lack of relationship with the Complainant. Indeed, there was only a generic disclaimer positioned in the bottom of the "About Us" page of the website to which the disputed domain names resolve/redirect, which included the following: "IMPORTANT: The IQOS Order is in no way linked to the IQOS official brand representation... This website merely provides a platform. This is not a real trading platform for individual IQOS Partners...." The Panel finds that this disclaimer was not sufficiently prominent. Furthermore, the publication of the IQOS mark and images of the IQOS Product, as well as a link redirecting to the Complainant's official site, appears to be designed to reinforce the impersonating nature of the disputed domain names falsely suggesting that the website corresponding to the disputed domain names was operated by the Complainant or one of its authorized distributors. The overall circumstances of this case point to the Respondent's bad faith, so the mere existence of this disclaimer cannot cure such bad faith. In addition to the above, since the disputed domain names resolve (redirect) to the website which is clearly commercial in nature, the Respondent has not made a legitimate noncommercial or fair use of the disputed domain names.

Thus, in view of the above-described use of the disputed domain names, the Panel finds that the Respondent has not used the disputed domain names in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's trademark.

Therefore, the Panel finds the second element of the Policy has been established as well.

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

The Panel refers to its considerations under section 6.B.

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4 (b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

As to bad faith at the time of the registration, the Panel finds that, in light of the prior registration and use of the IQOS mark in connection with the Complainant's tobacco products in several jurisdictions and considering that the Respondent has engaged in the sale of IQOS Product on the websites to which the disputed domain names resolve/redirect, the Respondent was or ought to be aware of the IQOS mark.

The circumstance that the Respondent is linking the disputed domain names to the website displaying the Complainant's trademarks and copyrighted images, as well as a link redirecting to the Complainant's official site, and advertising and purportedly offering for sale the Complainant's branded products shows that the Respondent indeed intended to target the Complainant and its trademarks.

The Panel also finds that, by (re)directing the disputed domain names to a website featuring the Complainant's trademarks and purportedly selling the Complainant's products, the Respondent has intentionally attempted to attract Internet users to its websites for commercial gain, by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation or endorsement of the websites according to paragraph 4(b)(iv) of the Policy.

Moreover, the Panel also finds that the Respondent registered the disputed domain names to prevent the Complainant from reflecting its trademark in corresponding domain names and engaged in a pattern of such conduct according to paragraph 4(b)(ii) of the Policy, since it registered at least three domain names incorporating the Complainant's trademark. [WIPO Overview 3.0](#), section 3.1.2.

Furthermore, panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos) to a widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element 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 disputed domain names <iqos-rendeles.click> and <iqos-rendeles.pro> be transferred to the Complainant.

*/Willem J. H. Leppink/*

**Willem J. H. Leppink**

**Sole Panelist**

**Date:** February 6, 2025