

ADMINISTRATIVE PANEL DECISION

Philip Morris Products S.A. v. hon li
Case No. D2025-0014

1. The Parties

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

The Respondent is hon li, Spain.

2. The Domain Name and Registrar

The disputed domain name <iqostw01.com> is registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 3, 2025. On January 3, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 6, 2025, 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 (Domain Admin) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 6, 2025, 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 January 8, 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 January 9, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 29, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 30, 2025.

The Center appointed Zoltán Takács as the sole panelist in this matter on February 5, 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 part of the group of companies affiliated to Philip Morris International Inc. ("PMI"), one of the leading international tobacco and smoke-free products companies selling its products in approximately 180 countries of the world.

PMI has developed a number of so-called reduced risk products, which are likely to present, or have the potential to present less risk of harm to smokers who switch to those products instead of continued smoking. One of the PMI's reduced risk products is the tobacco heating system called IQOS, which is comprised of precisely controlled heating devices into which specially designed tobacco sticks are inserted.

Among others the Complainant owns the International Trademark Registration No. 1218246 for the word mark IQOS registered since July 10, 2014, in relation to tobacco and smoker's articles and services.

The disputed domain name was registered on October 29, 2024, and has resolved to an online shop in Chinese language that was purportedly selling and offering the Complainant's IQOS system, and third party competing tobacco products and other products of commercial origin. The website at the disputed domain name displayed prices in Taiwan Province of China's currency (New Taiwan Dollar), indicating that it was directed to Taiwan Province of China despite the Complainant's IQOS system not being legally available in Taiwan Province of China.

Currently the disputed domain name is inactive.

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.

Notably, the Complainant contends that:

- the disputed domain name, which fully incorporates its IQOS trademark is confusingly similar to it because the addition of the geographical abbreviation for Taiwan Province of China ("tw") and number "01" to the trademark in the disputed domain name is not sufficient to distinguish the disputed domain name from the trademark;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name, and
- the use of its trademark, product images and marketing materials on the website at the disputed domain name shows the Respondent's awareness of its trademark at the time of registration of the disputed domain name as well as the Respondent's intent to deceive consumers into believing that it is a website operated or authorized by the Complainant.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

B. Respondent

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

6. Discussion and Findings

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the 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

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.

Based on the available record, the Panel finds 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 Panel finds that the disputed domain name is confusingly similar to the mark for the purposes of the Policy.

The entirety of the mark is reproduced within the disputed domain name. Although the addition of other terms (in this case the letters "tw" and number "01") may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7 and 1.8.

The Panel finds that 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 name. 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 name such as those enumerated in the Policy or otherwise.

The Respondent is not affiliated with the Complainant in any respect and the Complainant has not authorized the Respondent to use its IQOS trademark in a domain name or otherwise.

The disputed domain name resolves to a website purported offering the Complainant's products and competing tobacco products and accessories of other commercial origin. There is not any disclaimer prominently and accurately disclosing the (lack of) relationship between the Parties. Therefore, the Panel finds that the Respondent's use of the disputed domain name cannot fulfill the requirements of the Oki Data test. See *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#), and [WIPO Overview 3.0](#), section 2.8.

The Panel finds that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

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.

As mentioned above the website at the disputed domain name featured the Complainant's mark, product images, and marketing materials. In view of the Panel, this shows that the Respondent had actual knowledge of the Complainant and its mark and has registered the disputed domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark in order to gain unfair profit. Paragraph 4(b)(iv) of the Policy.

The Respondent's intent to target the Complainant's mark can be readily inferred from the fact that the disputed domain name incorporates the Complainant's trademark in its entirety. Visitors of the Respondent's website might have well been under the impression that it was either created and operated by the Complainant or by an official distributor of the Complainant, neither of which the Respondent is.

The Panel also notes that the Complainant's IQOS system is legally not available in Taiwan Province of China, which appears to be a market to which the disputed domain name was directed to. Yet, the Respondent's website falsely suggested to Internet user that the Complainant's IQOS system is legitimately available in Taiwan Province of China. Such deliberate false activity may be harmful to the Complainant and is in view of the Panel further evidence of the Respondent's bad faith.

The disputed domain name is currently inactive. However, panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. In this context, the Panel notes the reputation of the Complainant's trademark, the composition and previous use of the disputed domain name, and finds that in the circumstances of this case the current passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds that the third element of the Policy has been established.

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 <iqostw01.com> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: February 17, 2025