

ADMINISTRATIVE PANEL DECISION

Philip Morris Products S.A. v. SEAH eric
Case No. D2024-2305

1. The Parties

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

The Respondent is SEAH eric, Singapore.

2. The Domain Name and Registrar

The disputed domain names <iqossg.com> and <iqostereasg.com> are registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 5, 2024. On June 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 11, 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 (Domain Admin) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 20, 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 June 25, 2024.

The Center verified that the Complaint together with 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 July 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 21, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 22, 2024.

The Center appointed Mireille Buydens as the sole panelist in this matter on July 25, 2024. 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 affiliated to Philip Morris International Inc. It is a leading international tobacco and smoke-free products company, with products sold in approximately 180 countries. Philip Morris also sells products aimed at replacing traditional cigarettes. One of these products is a tobacco heating system called IQOS, which was launched in Japan in 2014. IQOS is a controlled heating device into which specially designed tobacco sticks under, inter alia, the brand name “TEREA” are inserted and heated to generate a flavourful nicotine-containing aerosol. the IQOS device and the sticks are available in key cities in around 71 markets across the world and has around 19.1 million consumers worldwide. The IQOS device and sticks are almost exclusively distributed through official IQOS stores and websites and selected authorized distributors and retailers.

The Complainant is the owner of several trademark registrations for IQOS and TEREА (the “Trademarks”) notably for electronic cigarettes and associated products and services, including the following:

- International Registration No. 1338099 for IQOS (word and device) registered on November 22, 2016, designating various countries worldwide, including Singapore;
- International Registration No. 1461017 for IQOS (word and device) registered on January 18, 2019, designating various countries worldwide, including Singapore;
- International Registration No. 1557546 for IQOS (word and device) registered on August 27, 2020, in various countries worldwide including Singapore;
- International Registration No. 1218246 for IQOS (word) registered on September 22, 2016, in various countries worldwide;
- International Registration No. 1629687 for TEREА for IQOS ILUMA (word and device) registered on August 26, 2021, in various countries worldwide;
- International Registration No. 1765887 for TEREА (word) registered on October 19, 2023, designating various countries worldwide;

The Complainant also owns the domain name <iqos.com>, registered on April 25, 1997, which resolves to the Complainant’s primary web portal for the promotion of the IQOS products.

The disputed domain names were registered on April 26, 2024, by the Respondent. According to the Complaint, the disputed domain names resolve to online shops allegedly selling and offering the Complainant’s IQOS device and TEREА tobacco sticks and directed to the Singapore market (the websites referring to Singapore). The website associated with the disputed domain name <iqostereasg.com> is using the Complainant’s registered IQOS and TEREА trademarks on each page (offering the IQOS device in various colors and TEREА products). At the bottom of this website, there is copyright notice “2023 Singapore IQOS”. The website associated with the disputed domain name <iqossg.com> is also using the Complainant’s IQOS and TEREА Trademarks on each page (offering the IQOS device in various colors and TEREА tobacco sticks).

At the date of this decision, both disputed domain names resolve to an error page.

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.

First, the Complainant asserts that it owns registrations for the Trademarks, including in Singapore where the Respondent is located. These Trademarks were registered well before the Respondent registered the disputed domain names on April 26, 2024. The disputed domain names are confusingly similar to the Complainant's Trademarks. The disputed domain name <iqostereasg.com> reproduces the IQOS and TEREА trademarks in their entirety, with the addition of the geographical abbreviation for Singapore, i.e. "SG". The disputed domain name <iqossg.com> reproduces the IQOS Trademark in its entirety, again with the addition of the geographical abbreviation for Singapore, i.e. "SG". The disputed domain names therefore incorporate the Trademarks, while it is well established that the mere addition of a geographical term to a trademark in a domain name is insufficient in itself to avoid confusing similarity under the first element of the UDRP. It is further well established that the applicable Top-Level-Domain ("TLD") in a domain name is viewed as a standard registration requirement and as such is disregarded under the first element of confusing similarity test.

Second, the Complainant asserts that the Respondent lacks rights or legitimate interests in the disputed domain names. The Complainant has not licensed or otherwise permitted the Respondent to use any of its trademarks or to register domain names incorporating its IQOS and/or TEREА Trademarks. The Respondent is not making any legitimate noncommercial or fair use of the disputed domain names. There is no evidence that the Respondent is using the disputed domain names for a bona fide offering of goods or services. The Respondent is not an authorized distributor or reseller of the IQOS devices and TEREА products. The use of a domain name cannot be "fair" if it suggests a false affiliation with the trademark owner, which is the case here as the disputed domain names reproduce the Trademarks with the mere addition of the letters "SG" for Singapore. Furthermore, the websites operated under the disputed domain names reproduce materials from the Complainant's website. The website operated under the disputed domain name <iqostereasg.com> contains a copyright notice "©2023, SINGAPORE IQOS". The websites include no information regarding the identity of the provider of the websites, which are only identified as "SINGAPORE IQOS" / "IQOSTEREASG" on the Website associated with the disputed domain name <iqostereasg.com>, and "IQOS SINGAPORE" / "IQOSSG" on the website associated with the disputed domain name <iqossg.com>. All these elements suggest a false affiliation with, and sponsorship by, the Complainant. Consumers are misled regarding the relationship between the Respondent's websites and the Complainant, and will falsely believe the Respondent's websites under the disputed domain names to be official / endorsed distributors.

Third, the Complainant asserts that the disputed domain names were registered and are being used in bad faith. The Respondent knew or should have known of the Complainant's Trademarks when registering the disputed domain names. The terms IQOS and TEREА are purely imaginative terms and unique to the Complainant. The terms IQOS and TEREА are not commonly used to refer to tobacco products or tobacco-related electronic devices. It is therefore beyond the realm of reasonable coincidence that the Respondent chose the disputed domain names, without the intention of creating a misleading association with the Complainant and its Trademarks.

Further, the Respondent uses the disputed domain names with the intention to attract, for commercial gain, internet users to its websites by creating a likelihood of confusion with the Complainant's Trademarks as to the source, sponsorship, affiliation, or endorsement of its websites. By reproducing the Complainant's Trademarks in the disputed domain names and on the websites, the Respondent is clearly suggesting to any Internet user visiting them that the Complainant (or an affiliated dealer of the Complainant) is the source of the websites or endorses them, which it is not the case. This suggestion is further supported by the Respondent's use of the Complainant's official product images and marketing materials, accompanied by a copyright notice claiming the copyright for the website associated with the disputed domain name <iqostereasg.com>. Finally, the fact that Respondent is using a privacy protection service to hide its true identity is also a factor indicating bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the Complainant proves each of the following three elements to succeed in its Complaint:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed 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.

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

The Panel finds the Trademarks are recognizable within the disputed domain names. The disputed domain name <iqostereasg.com> reproduces the IQOS and TEREA Trademarks in their entirety, with the mere addition of the geographical abbreviation for Singapore, i.e. "sg". The disputed domain name <iqossg.com> reproduces the IQOS trademark in its entirety, with the mere addition of the geographical abbreviation for Singapore, i.e., "sg". Although the addition of other terms, here the letters "sg" as an abbreviation for "Singapore", may bear on assessment of the second and third elements, the Panel finds the addition of such letters does not prevent a finding of confusing similarity between the disputed domain names and the Trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The generic Top-Level Domain ("gTLD") extension (".com"), as a standard requirement of domain name registration, may be disregarded in the assessment of identity or confusing similarity.

Accordingly, the disputed domain names are confusingly similar to the Trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 Respondent is not licensed by or affiliated with the Complainant in any way. There is no evidence that the Respondent is commonly known by the disputed domain names, nor is there any evidence of use or demonstrable preparations to use the disputed domain names for a bona fide offering of goods or services. There is no evidence of legitimate noncommercial or fair use of the disputed domain names, either. On the contrary, the Panel notes that (a) the disputed domain names reproduce the Trademarks with the mere addition of the letters “sg” as abbreviation for Singapore; (b) contain pictures that are identical as those appearing on the Complainant’s official website and (c) as far as the website operated under the disputed domain name <iqostereasg.com> is concerned, contains a copyright notice “©2023, SINGAPORE IQOS”.

The websites operated under the disputed domain names include no information regarding the identity of the provider of these websites, which are only identified as “SINGAPORE IQOS” / “IQOSTEREASG” and “IQOS SINGAPORE” / “IQOSSG”. Internet users could therefore falsely believe that the websites are official websites of the Complainant for the Singapore market, the more so that the websites reproduce the Complainant’s IQOS and TEREASG products. Panels have held that the use of a domain name for activity such as impersonation/passing off, can never confer rights or legitimate interests on a respondent.

[WIPO Overview 3.0](#), section 2.13.1.

Furthermore, the disputed domain names, consisting of the IQOS and TEREASG Trademarks (for <iqostereasg.com>) and the IQOS Trademark (for <iqossg.com>) with the letters “sg” (abbreviation for Singapore), carry a high risk of implied affiliation and affirms the Respondent’s intention of taking unfair advantage of the likelihood of confusion between the disputed domain names and the Complainant’s Trademarks. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds 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.

In the present case, the Panel notes that the disputed domain names consist of the Complainant’s Trademarks and the two letters “sg”, which are the abbreviation of Singapore. The Trademarks predate the registration of the disputed domain names. The Trademarks are *inter alia* registered in Singapore, where the Respondent is located. They are not descriptive nor even evocative of tobacco products, and are not commonly used to refer to tobacco products or tobacco-related electronic devices. A quick IQOS and/or TEREASG trademark search, or even a Google search, would have revealed to the Respondent the existence of the Complainant and its Trademarks. As a result, the Panel finds that the Respondent was more likely than not aware of the Complainant’s Trademarks at the time of the registration of the disputed domain names ([WIPO Overview 3.0](#) section 3.1.4). The Respondent’s actual knowledge of the Complainant and its Trademarks is furthermore clearly demonstrated by the fact that the disputed domain names resolved to websites reproducing the Complainant’s IQOS and TEREASG products and presenting themselves as the IQOS websites for Singapore.

Paragraph 4(b) of the Policy considers that the domain name is used in bad faith when, by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the respondent’s website or location or of a product or service on the respondent’s website or location. In the present case, the Panel notes that the disputed domain names which reproduce the Trademarks with the mere addition of the two letters “sg” for “Singapore”, combined with the gTLD “.com”, falsely suggests that Internet users will find a website affiliated with the Complainant and proposing IQOS and TEREASG products for the Singapore market. The Respondent has sought to create a

misleading impression of association with the Complainant, which is a famous company in the field of tobacco products. The Panel concludes that the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's Trademarks.

Furthermore, the failure of the Respondent to submit a response is further evidence of bad faith, given all the circumstances of the case. [WIPO Overview 3.0](#), section 3.2.

The disputed domain names currently resolve to an error page. Panels have found that the non-use of a domain name (including a blank or error page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's Trademarks, and the composition of the disputed domain names, and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of 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 <iqossg.com> and <iqostereasg.com> be transferred to the Complainant.

/Mireille Buydens/

Mireille Buydens

Sole Panelist

Date: August 5, 2024