

ADMINISTRATIVE PANEL DECISION

Philip Morris Products S.A. v. Style Iqos, SYI
Case No. D2024-2746

1. The Parties

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

The Respondent is Style Iqos, SYI, Spain.

2. The Domain Name and Registrar

The disputed domain name <styleyouriqos.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 5, 2024. On July 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 5, 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 (Contact Privacy Inc. Customer 0170967093) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 8, 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 July 8, 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 July 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 6, 2024.

The Center appointed Torsten Bettinger as the sole panelist in this matter on August 16, 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 tobacco company, which is part of the group of companies affiliated with Philip Morris International Inc., a leading tobacco and smoke-free products company. The company manufactures and sells six versions of tobacco heating systems under various IQOS brands.

It is the owner of several IQOS and ILUMA trademarks worldwide, including:

- European Union Intellectual Property Office (EUIPO) Registration IQOS (word) No. 010636611 registered on June 20, 2012;
- European Union Intellectual Property Office (EUIPO) Registration ILUMA (word) No. 18165159 registered on May 22, 2020;
- European Union Intellectual Property Office (EUIPO) Registration IQOS ILUMA (word) No. 18165156 registered on May 22, 2020;
- European Union Intellectual Property Office (EUIPO) Registration IQOS ILUMA PRIME (word) No. 018250485 registered on October 8, 2020,
- European Union Intellectual Property Office (EUIPO) Registration ILUMA ONE (word) No. 018250483 registered on October 8, 2020;
- International Registration No. 1218246 for the mark IQOS (word) registered on July 10, 2014.

The disputed domain name was registered on April 23, 2024, and is linked to an online shop at “www.styleyouriqos.com” selling third party accessories allegedly designed for the Complainant’s IQOS System.

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 is confusingly similar to the Complainant’s IQOS trademark because

- the disputed domain name identically adopts the Complainant’s IQOS trademark;
- the disputed domain name reproduces the IQOS trademark in its entirety, in addition to the non-distinctive and descriptive phrase/words “style your”;
- the addition of merely generic, descriptive, or geographical wording to a trademark in a domain name is insufficient in itself to avoid a finding of confusing similarity under the first element of the UDRP;
- it is 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 confusing similarity test.

With regard to the Respondent having no rights or legitimate interests in the disputed domain name, the Complainant submitted that

- it has not licensed or otherwise permitted the Respondent to use any of its trademarks or to register a domain name incorporating its IQOS trademark;
- the Respondent's behavior shows a clear intent to obtain an unfair commercial gain, with a view to misleadingly divert consumers or to tarnish the trademarks owned by the Complainant;
- the Respondent is not an authorized distributor or reseller of the IQOS System;
- selling competing tobacco products and/or accessories of other commercial origin 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 third party products of other commercial origin allegedly designed for the Complainant's IQOS System in close conjunction with the Complainant's registered ILUMA, ILUMA ONE and/or ILUMA PRIME trademarks but also competing tobacco products and accessories of other commercial origin;
- the use of a domain name cannot be "fair" if it suggests an affiliation with the trademark owner;
- the disputed domain name in itself suggests at least an affiliation with the Complainant and its IQOS trademark, as the domain name wholly reproduces the Complainant's registered IQOS trademark together with the non-distinctive and descriptive phrase/words "style your";
- the website to which the disputed domain name resolves, prominently and without authorization presents the Complainant's registered IQOS, ILUMA, ILUMA ONE and/or ILUMA PRIME trademarks;
- the website to which the disputed domain name resolves uses the Complainant's official product images without authorization;
- the Complainant's IQOS System is primarily distributed through official / endorsed stores, and therefore Internet users are clearly misled regarding the relationship between the website and the Complainant, and will falsely believe the website under the disputed domain name to be an official or endorsed distributor.

Finally, with regard to the disputed domain name having been registered and being used in bad faith, the Complainant argues that,

- the Respondent knew of the Complainant's IQOS trademark when registering the disputed domain name as the Respondent started offering the Complainant's IQOS System immediately after registering the disputed domain name;
- the term IQOS is purely an imaginative term and unique to the Complainant and is not commonly used to refer to tobacco products or electronic devices;
- 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 trademark 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. In this regard we may refer to the above explanations;

- by reproducing the Complainant's registered trademark in the disputed domain name and the title of the website to which the disputed domain name resolves, the Respondent is clearly suggesting to any Internet user visiting a website provided under the disputed domain name that the Complainant (or an affiliated dealer of the Complainant) is the source of the website, which it is not;
- the abusive use of the Complainant's IQOS trademark for purposes of promoting competing products is a clear-cut trademark infringement and constitutes clear evidence of the Respondent's bad faith;
- the fact that Respondent is using a privacy protection service to hide its true identity may in itself constitute 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 states that the Complainant must prove each of the three following elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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 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 the disputed domain name. Accordingly, the disputed domain name is 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, "style your", may bear on assessment of the second and third elements, the Panel finds the addition of these words 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 1.8.

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.

On the contrary, the Respondent's behavior shows a clear intent to obtain an unfair commercial gain, with a view to misleadingly diverting consumers.

The Complainant provided evidence that shows that the Respondent is offering third party products of other commercial origin allegedly designed for the Complainant's IQOS System in close conjunction with the Complainant's registered ILUMA, ILUMA ONE and/or ILUMA PRIME trademarks. The Complainant also contends that the website to which the disputed domain name resolves uses the Complainant's official product images without authorization. The Panel finds that the Respondent is not using the disputed domain name for a bona fide offering of goods.

Therefore, the second element of the UDRP is met.

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 Complainant provided evidence of multiple trademark registrations for the IQOS mark that predate the registration of the disputed domain name.

In light of the use of the Complainant's IQOS trademark in the disputed domain name and the fact that the Respondent started offering accessories designed for the Complainant's IQOS System immediately after registering the disputed domain name the Panel has no doubt that the Respondents was aware of the Complainant and the Complainant's trademark rights when registering the disputed domain name.

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.

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.

From the record, it is evident 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 trademark 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.

By reproducing the Complainant's registered trademark in the disputed domain name and the title of the website, the Respondent is clearly suggesting to any Internet user visiting the website provided under the disputed domain name that the Complainant is the source of the website. This suggestion is further

supported by the Respondent's use of the Complainant's official product images in close conjunction with the Complainant's registered ILUMA, ILUMA ONE and/or ILUMA PRIME trademarks, without authorization.

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 name <styleyouriqos.com> be transferred to the Complainant.

/Torsten Bettinger/

Torsten Bettinger

Sole Panelist

Date: August 30, 2024