

## **ADMINISTRATIVE PANEL DECISION**

Philip Morris Products S.A. v. Viktor Molnar, Goldhands Srl  
Case No. D2024-3978

### **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.info>, <iqos-rendeles.net>, <iqos-rendeles.online>, and <iqos-rendeles.shop> are registered with Spaceship, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 27, 2024. On September 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 2, 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 October 2, 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 October 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 October 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 30, 2024.

The Center appointed Luca Barbero as the sole panelist in this matter on November 4, 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 part of a group of companies affiliated to Philip Morris International Inc. (jointly referred to as "PMI"). PMI is one of the leading international tobacco and smoke-free products companies, with products sold in approximately 180 countries.

In the course of transforming its business from combustible cigarettes to Reduced Risk Products (or "RRPs", which the Complainant defines as products that present, are likely to present, or have the potential to present less risk of harm to smokers who switch to those products versus continued smoking), PMI has developed a number of RRP products, one of which is a tobacco heating system called IQOS.

IQOS is a precisely controlled heating device into which specially designed tobacco sticks identified with the brand names HEETS, "HeatSticks" and "Terea" are inserted and heated to generate a flavorful nicotine-containing aerosol (collectively referred to as the "IQOS System"). There are 6 versions of the IQOS heating devices currently available: the IQOS 2.4/IQOS 2.4+ pocket charger and holder, IQOS 3 pocket charger and holder, IQOS 3 Multi device, IQOS 3 DUO/DUOS, IQOS ILUMA I, and IQOS ILUMA.

The IQOS System was first launched by PMI in Nagoya, Japan in 2014 and has obtained a 20 percent share of the market in such country. Today, the IQOS System is available in key cities in around 84 markets across the world and is almost exclusively distributed through PMI's official IQOS stores and websites and selected authorized distributors and retailers.

The Complainant is the owner, amongst others, of the following trademark registrations:

- European Union trademark registration No. 010636611 for IQOS (word mark), filed on February 12, 2012, and registered on June 20, 2012, in classes 9 and 42;
- International Trademark Registration No. 1218246 for IQOS (word mark), registered on September 22, 2016, in classes 9, 11, and 34;
- International Trademark Registration No. 1338099 for IQOS (figurative mark), registered on November 22, 2016, in class 35.

The Complainant is also the owner of the domain name <iqos.com> registered on April 25, 1997, which points to a website where the Complainant promotes its IQOS products.

The disputed domain names <iqos-rendeles.net>, registered on June 4, 2024, and <iqos-rendeles.info>, <iqos-rendeles.online>, and <iqos-rendeles.shop>, registered on June 14, 2024, all currently resolve to the website "www.iqos-rendeles.click", an online store publishing the IQOS figurative mark and promoting the sale of the IQOS System using copyrighted images taken from the Complainant's official website whilst providing a copyright notice claiming copyright in the material presented on the website. The Complainant has submitted evidence showing that the disputed domain names <iqos-rendeles.info>, <iqos-rendeles.online> and <iqos-rendeles.shop> previously resolved to online shops with similar layouts displaying the Complainant's IQOS trademark and its product images, and purportedly offering for sale IQOS products. The disputed domain name <iqos-rendeles.net> redirected to the website at the disputed domain name <iqos-rendeles.shop>. Later, according to the evidence submitted by the Complainant, all the disputed domain names redirected to a website at a domain name <iqos-rendeles.us> with the similar content.

## 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, the Complainant contends that the disputed domain names <iqos-rendeles.info>, <iqos-rendeles.online>, <iqos-rendeles.net>, and <iqos-rendeles.shop> are confusingly similar to the trademark IQOS in which the Complainant has rights 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") ".info", ".net", ".shop", and ".online".

With reference to rights or legitimate interests in respect of the disputed domain names, the Complainant states that the Respondent has in no way been consented or granted any license to use the IQOS marks or register the disputed domain names nor is it an authorized distributor or reseller of the IQOS System.

The Complainant further submits that 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 *Ok! Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) ("Ok! data") 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 websites corresponding to the disputed domain names. The Complainant also states that the Respondent included hyperlinks to the Complainant's official website "www.iqos.com", purportedly to further attract attention of the Complainant in the hope of obtaining an offer to purchase the disputed domain names.

The Complainant contends that the Respondent knew of the Complainant's trademark at the time of registration of the disputed domain names considering ii) 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 System immediately after registering the disputed domain names.

The Complainant further states that, 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 websites, by creating a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of its websites.

The Complainant points out that the Respondent has deliberately engaged in a pattern of conduct as it registered the four disputed domain names and may have also been connected to the prior registrant of <iqos-rendeles.com>, which was involved in a prior UDRP proceeding 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

According to paragraph 15(a) of the Rules: “A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.” Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) that the disputed domain names registered by the Respondent are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain names;  
and
- (iii) that the disputed domain names have been registered and are 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 names (“[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. Indeed, the Complainant has provided evidence of ownership of several valid trademark registrations for IQOS.

The entirety of the IQOS mark is reproduced within 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 the term “rendeles” (meaning “order” in Hungarian) 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 names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Moreover, the gTLDs “.info”, “.net”, “.shop”, and “.online”, can be disregarded under the first element confusing similarity test, being a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1.

Therefore, 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 websites advertising and offering for sale the Complainant's tobacco products and accessories without publishing an accurate and prominent disclaimer on the home page aimed at informing users about its lack of relationship with the Complainant. Indeed, there was only a generic disclaimer positioned on an internal page of the websites to which the disputed domain names resolved, which moreover did not include the name of the trademark owner. Furthermore, the publication of the Complainant's trademarks and official product images appears to be designed to reinforce the impression that the websites corresponding to the disputed domain names were 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 resolved (redirected, in case of the disputed domain name <iqos-rendeles.net>) to websites which were 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 previous 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.

Lastly, the disputed domain names, combining the Complainant's trademark IQOS with the term "rendeles" (meaning "order" in Hungarian), are inherently misleading. Even where a domain name consists of a trademark plus an additional term, UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

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

### **C. Registered and Used 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 Complainant's trademark IQOS in connection with the Complainant's tobacco products in several jurisdictions and considering that the Respondent has engaged in the sale of IQOS System on the websites to which the disputed domain names resolved, the Respondent was or ought to be aware of the Complainant's trademark.

The circumstance that the Respondent is pointing the disputed domain names to websites displaying the Complainant's trademarks and copyrighted images and advertising and 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 redirecting the disputed domain names at present to a website featuring the Complainant's trademarks and selling the Complainant's products and through the prior use of the disputed domain names, 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 four domain names incorporating the Complainant's trademark. [WIPO Overview 3.0](#), section 3.1.2.

Therefore, the Panel finds that the Complainant has also 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.info>, <iqos-rendeles.net>, <iqos-rendeles.online>, and <iqos-rendeles.shop> be transferred to the Complainant.

*/Luca Barbero/*

**Luca Barbero**

Sole Panelist

Date: November 18, 2024