

## **ADMINISTRATIVE PANEL DECISION**

Philip Morris Products S.A. v. Saeed Zarrabian  
Case No. DIR2022-0018

### **1. The Parties**

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

The Respondent is Saeed Zarrabian, Iran (Islamic Republic of).

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

The disputed domain name <heetsstyle.ir> is registered with IRNIC.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 14, 2022. On October 17, 2022, the Center transmitted by email to IRNIC a request for registrar verification in connection with the disputed domain name. On October 18, 2022, IRNIC transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the .ir Domain Name Dispute Resolution Policy (the “Policy” or “irDRP”), the Rules for .ir Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .ir Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on October 19, 2022. In accordance with the Rules, paragraph 5(a), the due date for Response was November 8, 2022. On November 10, 2022, the Center notified the Respondent’s default.

The Center appointed George R. F. Souter as the sole panelist in this matter on November 14, 2022. 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”). PMI is a leading international tobacco and smoke-free products company with products sold in more than 180 countries. PMI produces and sells a controlled heating, smoke-free device under its IQOS mark into which specially designed tobacco products under the brand name HEETS, amongst others, are inserted and heated to generate a flavourful nicotine-containing aerosol. IQOS products were first launched in 2014 and are available in 71 markets across the world. The Complainant’s IQOS and HEETS marks have been recognised as being well-known by prior UDRP panels. See, respectively, *Philip Morris Products S.A. v. Protection of Private Person / Daniil Nesterov*, WIPO Case No. [D2019-2150](#); and *Philip Morris Products S.A. v. Логовський Владислав Андрійович, Logovskij Vladislav*, WIPO Case No. [D2020-1044](#)<sup>1</sup>.

The Complainant’s HEETS trademark is registered in many jurisdictions, including International Registration No. 1326410, registered on July 19, 2016.

The disputed domain name was registered on April 12, 2022, and resolves to a website which is linked to an online shop offering for sale the Complainant’s IQOS system, as well as competing third party products of different commercial origin.

#### 5. Parties’ Contentions

##### A. Complainant

The Complainant alleges that the disputed domain name is confusingly similar to its HEETS trademark, containing its HEETS trademark in its entirety, with inconsequential additions.

The Complainant alleges that the Respondent lacks rights or legitimate interests in the disputed domain name, in particular that it has never granted permission to the Respondent to use its HEETS trademark in connection with the registration of a domain name, or otherwise.

The Complainant alleges that the disputed domain name was registered in bad faith, and is being used in bad faith in connection with a website offering products competing with those of the Complainant.

##### B. Respondent

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

#### 6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements that the Complainant must prove to merit a finding that the disputed domain name be transferred to the Complainant:

- (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 or is being used in bad faith.

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<sup>1</sup> The Panel follows prior decisions under the irDRP and, given the similarities between the irDRP and the Uniform Domain Name Resolution Policy (“UDRP”), finds it appropriate to refer to UDRP jurisprudence, including reference to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). See *Inter IKEA Systems BV (IISBV) v. Mohammadreza Mohammadian*, WIPO Case No. [DIR2018-0003](#).

## **A. Confusing similarity**

The Panel finds that the Complainant has rights to its HEETS trademark for the purposes of these proceedings.

It is well established in prior decisions under the UDRP, with which the Panel agrees, that a generic Top-Level Domain (“gTLD”) or a country code Top-Level Domain (ccTLD”) may generally be disregarded when comparing a trademark with a disputed domain name. The Panel considers the “.ir” ccTLD” to be irrelevant in the circumstances of the present case, and finds that it may be disregarded here.

The Complainant’s HEETS trademark is clearly recognizable in the disputed domain names, rendering the disputed domain name confusingly similar to the Complainant’s trademark, and the additional elements are inconsequential, and do not detract from this finding.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in connection with the disputed domain names at issue.

## **B. Rights or Legitimate Interests**

The Panel considers that the Complainant’s allegations are sufficient to provide a *prima facie* case under this heading.

It is the consensus view of UDRP panels, with which the Panel agrees, that a *prima facie* case advanced by the complainant will generally be sufficient for the complainant to be deemed to have satisfied the requirement of paragraph 4(a)(ii) of the Policy, provided the respondent does not come forward with evidence demonstrating rights or legitimate interests in the domain name and the complainant has presented a sufficient *prima facie* case to succeed under paragraph 4(a)(ii) of the Policy.

The Respondent did not advance any claim of rights or legitimate interests in the disputed domain name to rebut this *prima facie* case.

Furthermore, the nature of the disputed domain name, incorporating the Complainant’s well-known HEETS trademark, resolving to a website selling not only the Complainant’s products but also those of a competitor, leads the Panel to infer that the Respondent is unfairly taking advantage of the confusing similarity between the disputed domain name and the Complainant’s trademark.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy, in connection with the disputed domain name.

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

The Panel is of the view that the finding that a respondent has no rights or legitimate interests in a disputed domain name can lead, in appropriate circumstances, to a finding of registration of a disputed domain name in bad faith. The circumstances of the present case, in which the Panel regards it as self-evident that the Complainant’s HEETS trademark was deliberately appropriated in the disputed domain name are such that the Panel concludes that a finding of registration in bad faith is justified, in connection with the disputed domain name and so finds.

It is well-established in prior decisions under the Policy that the use of a disputed domain name in connection with a website offering goods in competition with those of the Complainant constitutes use of that disputed domain name in bad faith, and the Panel finds that the disputed domain name is being used in bad faith in the circumstances of the present case.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) 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 <heetsstyle.ir> be transferred to the Complainant.

*/George R. F. Souter/*

**George R. F. Souter**

Sole Panelist

Date: November 28, 2022