

ADMINISTRATIVE PANEL DECISION

Philip Morris Products S.A. v. Mohammad Saeed Zarabian
Case No. DIR2024-0015

1. The Parties

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

Respondent is Mohammad Saeed Zarabian, Islamic Republic of Iran (“Iran”).¹

2. The Domain Names and Registrar

The disputed domain names <ilumaland.ir> (“disputed domain name No. 1”) and <iqostehran.ir> (“disputed domain name No. 2”) are registered with IRNIC.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 6, 2024. On November 6, 2024, the Center transmitted by email to IRNIC a request for registrar verification in connection with the disputed domain names. On November 9, 2024, IRNIC 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 (Private registrations) and contact information in the Complaint.

The Center sent an email communication to Complainant on November 11, 2024, providing the registrant and contact information disclosed by IRNIC, and inviting Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on November 11, 2024. Hard copies of the Complaint and the amended Complaint were received by the Center on November 20, 2024.

The Center verified that the Complaint and the amended 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”).

¹Per the Center’s email communication of November 11, 2024, disclosing the registrant and contact information disclosed by IRNIC, the Panel notes that while the contact information (i.e., street address, email, and telephone) slightly differed between the two disputed domain names, only one nominal registrant was disclosed, namely the Respondent, Mohammad Saeed Zarabian. Accordingly, the Panel will address Respondent in the singular.

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified Respondents of the Complaint, and the proceedings commenced on November 20, 2024. In accordance with the Rules, paragraph 5(a), the due date for Response was December 10, 2024. On December 11, 2024, the Center notified Respondents' default.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on December 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

Complainant is a company organized under the laws of Switzerland and forms part of the larger "Philip Morris International" ("PMI") group of companies, which is engaged in the production and distribution of tobacco and smoke-free products that are being sold in approximately 180 countries worldwide.

Complainant has provided evidence that it is the registered owner of numerous trademarks relating to its product brands IQOS and ILUMA, inter alia, but not limited to, the following:

- word trademark IQOS, International registration (WIPO), registration number: 1218246, registration date: July 10, 2014 ;
- word/device trademark IQOS, International registration (WIPO), registration number: 1338099, registration date: November 22, 2016 ; and
- word trademark ILUMA, International registration (WIPO), registration number: 1764390, registration date: October 12, 2023.

Respondent, according to the IRNIC's verification, is located in Iran. The disputed domain name No. 1 was registered on February 25, 2023; it resolves to an online shop at "www.ilumaland.ir", allegedly selling Complainant's IQOS system and related repair/ maintenance services as well as products and accessories of other commercial origin competing with those of Complainant, thereby prominently displaying Complainant's IQOS and ILUMA trademarks as well as some of Complainant's official product images without any authorization to do so. The disputed domain name No. 2 was registered on April 16, 2020; it does not resolve to any active content on the Internet, but to an error page.

Complainant requests that the disputed domain names be transferred to Complainant.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names. Notably, Complainant contends to be since decades a leading international tobacco and smoke-free products company, and that its products including Reduced Risk Products ("RPRs") such as the IQOS system have meanwhile achieved considerable international success and reputation. There are six versions of the IQOS system currently available, including IQOS ILUMA.

Complainant submits that the disputed domain names are confusingly similar to Complainant's IQOS and ILUMA trademarks, as they adopt the latter identically, merely added by the nondistinctive and descriptive words "land" (disputed domain name No. 1) and "tehran" (disputed domain name No. 2). Moreover, Complainant asserts that Respondent has no rights or legitimate interests in respect of the disputed domain names since (1) Complainant has not licensed or otherwise permitted Respondent to use any of its trademarks or to register a domain name incorporating its IQOS and/or ILUMA trademarks (or a domain

name which will be associated with these trademarks), (2) Respondent is not an authorized distributor or reseller of Complainant's IQOS system and the website under the disputed domain name No. 1 is selling competing tobacco products and/or accessories of other commercial origin, and (3) the inactive website provided under the disputed domain name No. 2 does not give rise to any rights or legitimate interests on the part of Respondent either. Finally, Complainant argues that Respondent has registered and is using the disputed domain name in bad faith since (1) it is evident from Respondent's use of the disputed domain names that it knew of Complainant's IQOS and ILUMA trademarks when registering the disputed domain names, (2) by reproducing Complainant's trademarks in the disputed domain names and in the title of the website under the disputed domain name No. 1 as well as by using Complainant's official product images, Respondent is clearly suggesting to any Internet user that Complainant (or an affiliated dealer or licensee of Complainant) is the source of such website which it is not, and (3) the passive holding of the disputed domain name No. 2 does not as such prevent a finding of bad faith, especially in light of the similarity of this disputed domain name with Complainant's IQOS trademark.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, Complainant carries the burden of proving:

- (i) that the disputed domain names are identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) that Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) that the disputed domain names have been registered or are being used in bad faith.

Respondent's default in the case at hand does not automatically result in a decision in favor of Complainant, however, paragraph 5(f) of the Rules provides that if Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint. Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from Respondent's failure to submit a Response as it considers appropriate.

A. Identical or Confusingly Similar

First, 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 Complainant's IQOS and ILUMA trademarks and the disputed domain names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.²

Complainant has shown rights in respect of its IQOS and ILUMA trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Also, the entirety of such trademarks is reproduced each within one of the disputed domain names, merely added by the terms "land" (disputed domain name No. 1) and "tehran" (disputed domain name No. 2). Accordingly, the disputed domain names are confusingly similar to Complainant's IQOS and ILUMA trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Although the addition of other terms (here, the terms "land" and "tehran") may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing

² The Panel follows prior decisions under the irDRP and, given the similarities between the irDRP and the Uniform Domain Name Dispute Resolution Policy ("UDRP"), finds it appropriate to apply UDRP jurisprudence, including reference to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition. See *Inter IKEA Systems BV (IISBV) v. Mohammadreza Mohammadian*, WIPO Case No. [DIR2018-0003](#).

similarity between the disputed domain names and Complainant's IQOS and ILUMA trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel, therefore, holds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Second, paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in irDRP 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain names. Respondent has not rebutted 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.

In particular, Respondent has not been authorized to use Complainant's IQOS and ILUMA trademarks, either as a domain name or in any other way. Also, there is no reason to believe that Respondent's name somehow corresponds with the disputed domain names and Respondent does not appear to have any trademark rights associated with the terms "iqos" and/or "iluma" on its own. To the contrary, the disputed domain name No. 1 resolves to an online shop at "www.ilumaland.ir", allegedly selling Complainant's IQOS system and related repair/maintenance services as well as products and accessories of other commercial origin competing with those of Complainant, thereby prominently displaying Complainant's IQOS and ILUMA trademarks as well as some of Complainant's official product images without any authorization to do so; also, this website apparently does not contain any disclaimer informing Internet users of the non-existing (business) relationship between Respondent and Complainant, e.g., that the website is not operated by or affiliated with Complainant. Such use of the disputed domain name No. 1, therefore, neither qualifies as bona fide nor as legitimate noncommercial or fair within the meaning of the Policy, not even so under the so-called *Oki Data* principles which would indeed have required Respondent e.g., to only sell Complainant's products and to accurately and prominently disclose on such website the nonexistent relationship between Respondent and Complainant as the IQOS and ILUMA trademarks holder, which Respondent obviously did not. [WIPO Overview 3.0](#), section 2.8. Moreover, and in relation to the disputed domain name No. 2 which so far does not resolve to any active content on the Internet, but is passively held instead, UDRP panels, have found that the mere registration of a domain name does not by itself automatically confer rights or legitimate interests therein. [WIPO Overview 3.0](#), section 2.10.1.

The Panel, therefore, holds the second element of the Policy has been established, too.

C. Registered or Used in Bad Faith

Third, 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 or use of a domain name in bad faith.

The circumstances of this case leave no doubts that Respondent was fully aware of Complainant's rights in its undisputedly well-known IQOS and ILUMA trademarks when registering the disputed domain names and that the latter are clearly directed thereto. Moreover, using the disputed domain name No. 1, which is at least confusingly similar to Complainant's ILUMA trademark, to run an online shop at "www.ilumaland.ir", allegedly selling Complainant's IQOS system and related repair/maintenance services as well as products and accessories of other commercial origin competing with those of Complainant, thereby prominently displaying Complainant's IQOS and ILUMA trademarks as well as some of Complainant's official product images without any authorization to do so, is a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with Complainant's IQOS and ILUMA trademarks as to the source, sponsorship, affiliation or endorsement of Respondent's website. Such circumstances are evidence of registration and use of the disputed domain name No. 1 in bad faith within the meaning of paragraph 4(b)(iv) of the Policy. Moreover, and in relation to the disputed domain name No. 2, UDRP panels have held 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. Having reviewed the available record, the Panel notes the reputation of Complainant's IQOS and ILUMA trademarks and the fact that Respondent registered two domain names reproducing those trademark entirely, at least one of which is obviously riding on the fame of those trademarks to Complainant's disadvantage, and so concludes that in the circumstances of this case the passive holding of the disputed domain name No. 2 does not prevent a finding of bad faith under the Policy. [WIPO Overview 3.0](#), section 3.3.

The Panel, therefore, holds that Complainant has established the third element of the Policy, too.

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, <ilumaland.ir> and <iqostehran.ir>, be transferred to Complainant.

/Stephanie G. Hartung/

Stephanie G. Hartung

Sole Panelist

Date: December 18, 2024