

Decision for dispute CAC-UDRP-104326

Case number CAC-UDRP-104326

Time of filing 2022-02-08 11:29:54

Domain names philips-orginal.com

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization Koninklijke Philips N.V.

Complainant representative

Organization Coöperatieve Vereniging SNB-REACT U.A.

Respondent

Name Yuan Jie He

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant, Koninklijke Philips N.V., is the owner of famous trademark is PHILIPS, which is the subject of numerous trademark registrations around the world, including (a) the International trademark word registration No. 310459 for PHILIPS, based on its Benelux trademark registration, registered on March 16, 1966, for a range of goods and services, including in Nice class 11 for “apparatus, articles, devices and instruments for lighting, in particular electric incandescent lamps, (...) fluorescent lamps, (...) neon lamps, neon advertising installations, electric arc lamps and coals, headlights electric bicycles, electric taillights, flashlights, auxiliary apparatus, (...)”; (b) the International trademark figurative registration number 991346 for PHILIPS, designated for several countries including the People’s Republic of China, registered on June 13, 2008, for goods and services, including in class 11 for: “electric lamps”; (c) the European Union trademark word registration No. 205971 for PHILIPS filed on April 1, 1996 and registered on October 22, 1999 for goods and services including in class 11 for “(...) devices, apparatus, instruments and articles for lighting, (.); electric lamps (...).

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant, Koninklijke Philips N.V., is the owner of the well-known trademark PHILIPS, which is the subject of numerous trademark registrations around the world, including Benelux (since 1966), the EU (since 1996) and the International trademark figurative registration (including designation to the People's Republic of China, since 2008). The Complainant is referring to the protection of its well-known trademark for goods in Nice class 11, namely, the electric lamps.

The Respondent is Chinese subject Yuan Jie He. The Respondent registered the disputed domain name <philips-original.com> on March 15, 2019. This is over a decade since Complainant registered its trademark internationally, in many countries including the People's Republic of China. The Respondent's website, connected to the disputed domain, states "Welcome to Philips product authenticity", and passes off as an official website which allows consumers to verify the authenticity of PHILIPS automotive lighting products by inputting the label ID and security code details that are indicated on the packaging sticker into a webform. The Respondent has completely copied Complainant's PHILIPS automotive lighting "product authenticity check" website which is available at: <https://www.chk.philips.com/>, including the visual mark placed prominently at the top. It also chose the confusing domain name <philips-orginal.com> which evokes the Complainant's related website "original.philips.com". In doing so the Respondent has sought to impersonate Complainant.

The Respondent aims to create confusion amongst consumers, with the likely goal of harvesting information ('phishing' for information) regarding their authentic PHILIPS products, such as Label IDs and security codes. Considering the purpose of the PHILIPS Certificates of Authenticity system, such details could potentially be used by Respondent for several purposes, the most obvious would be to create illegal replica products or certificates (counterfeit activity), or misuse of factory warranty policies, both of which can never confer rights or legitimate interests on a Respondent. Conversely, the disputed domain name is likely used to get information on the consumer's authentic PHILIPS products or certificates, and most likely this information will be used to create counterfeits thereof or misuse factory warranty policies.

Complainant's Representative has submitted multiple notice-and-takedown requests to Respondent's webhost (ALICLOUD-US), however, without any response from either webhost or Respondent.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

1. The Complainant, Koninklijke Philips N.V., is the owner of the well-known trademark PHILIPS, which is the subject of numerous trademark registrations around the world, including Benelux (since 1966), the EU (since 1996) and the International trademark figurative registration (including designation to the People's Republic of China, since 2008). The Complainant is referring to the protection of its well-known trademark for goods in Nice class 11, namely, the electric lamps.

As was held in CAC Case 103077 <PHILIPSPULSEOXIMETERS.COM> “There are no doubts that the Complainant’s trademarks “PHILIPS” are well-known worldwide as confirmed by the previous panels (e.g. WIPO Case No. D2010-1494).”

2. The Panel acknowledges that the Complainant presented prima facie evidence that the Respondent is not sponsored by or affiliated with Complainant in any way. Furthermore, Complainant has not licensed, authorized, or permitted Respondent to use Complainant’s trademarks in any manner, including in domain names. The Respondent’s name “Yuan Jie He” does not resemble the disputed domain name in any manner. Respondent’s use of the disputed domain name does not constitute a bona fide offering of goods or services or a legitimate non-commercial or fair use (Policy Para. 4(c)).

3. The Panel agrees with the Complainant that the disputed domain name <philips-orginal.com> is confusingly similar to the Complainant’s well-known trademark PHILIPS. The adding of the misspelled word "orginal" (with likely reference to the "original") does not change the fact that the domain name and the registered trademark are confusingly similar. See for example WIPO Case No. D2021-3735 <original-timberland.com>. Numerous UDRP panels have considered that the addition of other terms (whether descriptive, pejorative, meaningless or otherwise) to trademarks in a domain name is not sufficient to escape a finding of confusing similarity (see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”).

4. As no administratively compliant response has been provided to the Panel and the prima facie evidence was not challenged by the Respondent, the Panel concludes that the Respondent meant nothing else except the Complainant’s trademark PHILIPS when he/she registered the disputed domain name. The evidence in this case show that Respondent is using the disputed domain name and the corresponding website to confuse the consumers of PHILIPS products, with the likely goal of phishing scheme related to their authentic PHILIPS products, such as Label IDs and security codes. Accordingly, the Panel finds that the disputed domain name was registered and used in bad faith (Policy Para. 4(b)(iv)).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. PHILIPS-ORGINAL.COM: Transferred

PANELLISTS

Name	dr. Darius Sauliūnas
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DATE OF PANEL DECISION 2022-03-14

Publish the Decision