Decision for dispute CAC-UDRP-107218

Case number	CAC-UDRP-107218
Time of filing	2025-01-13 09:07:01
Domain names	iran-philip.com , philips-ir.com, iliaphilips.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	Koninklijke Philips N.V.

Complainant representative

Organization	Coöperatie SNB-REACT U.A.

Respondents

Name	hossein gholamrezaei hossein gholamrezaei
Name	meysam habibvand meysam habibvand
Name	Mohsenkamali Mohsenkamali

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 names.

IDENTIFICATION OF RIGHTS

The Complainant is the holder of several trademarks for PHILIPS, including international word mark No. 310459, registered on March 16, 1966, in classes 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 19, 20, 21, 28, 31 and 34.

FACTUAL BACKGROUND

The Complainant, Koninklijke Philips N.V., is a Dutch company operating in the electronics business. The Complainant is the owner of several PHILIPS word- and figurative trademarks.

The disputed domain names were registered on the following dates:

- <iran-philip.com> on August 27, 2022;

- <philips-ir.com> on April 25, 2024; and
- <iliaphilips.com> on July 26, 2021.

The disputed domain names appear to resolve to different websites all mentioning the PHILIPS mark and offering for sale products similar to those of the Complainant (e.g. electronics). Although the images on the website linked to the disputed domain name <philips-ir.com> relate to furniture or wooden objects, a machine translation of this website indicates that electric appliances (such as “Philips shaver” or “Philips Vacuum Cleaner”) are also offered for sale.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain names should be transferred to it.

No administratively compliant Response has been filed.

RIGHTS

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

PROCEDURAL FACTORS

The disputed domain name <iran-philip.com> was registered in the name of hossein gholamrezaei as registrant. The other disputed domain names were registered in the names of meysam habibvand (<philips-ir.com>) and Mohsenkamali (<iliaphilips.com>) as registrants.

Disputes against differently named registrants may be consolidated where the disputed domain names or websites are under common control and consolidation is fair and equitable to all parties, taking into account procedural efficiency (see section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (WIPO Jurisprudential Overview 3.0; Pandora A/S v Larry Sack, CAC case 103259).

Although the disputed domain names are registered under these different names, the Complaint identifies a number of common factors:

- the disputed domain names use a similar naming pattern, namely the entirety of Complainant’s trademark (or, in one case, with a typo <iran-philip.com>), accompanied by a geographical term or a word without a particular meaning;
- the disputed domain names are currently registered with the same registrar;
- the disputed domain names are using the same web host;
- at least two of the disputed domain names resolve to similar websites that feature similar content and serve the same function. Namely, web shops impersonating Complainant and depicting its trademarks, which serve the same function, namely the (supposed) sale of Philips products.

The Panel finds that these factors in themselves are insufficient to conclude that the disputed domain names are under common control. However, the Panel identified another common factor: except for the telephone country code, all three identified registrants mention an identical 10-digit telephone number. The Panel finds that this cannot be a coincidence.

The Panel also notes that none of the common factors identified in the Complaint nor the inference that the disputed domain names are under common control have been disputed. On the balance of probabilities, the Panel finds that the disputed domain names are under common control based on the combination of all factors identified above. The Panel is also satisfied that consolidation of

these disputes is fair and equitable to all parties, and that they should be consolidated in the interest of procedural efficiency.

In these circumstances, 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

Paragraph 15 of the Rules provides that the Panel is to decide the complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

The onus is on the Complainant to make out its case and it is apparent, both from the terms of the Policy and the decisions of past UDRP panels, that the Complainant must show that all three elements set out in Paragraph 4 (a) of the Policy have been established before any order can be made to transfer a domain name. As the proceedings are administrative, the standard of proof is the balance of probabilities.

Thus, for the Complainant to succeed it must prove, within the meaning of Paragraph 4(a) of the Policy and on the balance of probabilities that:

1. The domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
2. The Respondent has no rights or legitimate interests in respect of the domain names; and
3. The domain names have been registered and are being used in bad faith.

The Panel has therefore dealt with each of these requirements in turn.

1. Identity of confusing similarity

The Complainant must first establish that there is a trademark or service mark in which it has rights. Since the Complainant shows to be the holder of registered PHILIPS marks, it is established that there is a trademark in which the Complainant has rights.

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.

The Panel observes that the disputed domain names <philips-ir.com> and <iliaphilips.com> incorporate the Complainant's PHILIPS trademark in its entirety with a few additions. The disputed domain name <iran-philip.com> incorporates the Complainant's PHILIPS trademark in its entirety except for the letter "S", adding a hyphen and the geographical term "iran". In the Panel's view, even if less evident for the disputed domain name <iran-philip.com>, such omission and additions do not prevent the Complainant's trademark from being recognizable within the disputed domain names (see section 1.8 WIPO Overview 3.0; IM PRODUCTION v. Xue Han, CAC Case No. 104877 <isabel-marantus.com>).

Moreover, a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. This stems from the fact that the domain name contains sufficiently recognizable aspects of the relevant mark. Examples of such typos include the omission of a letter (see section 1.9 WIPO Overview 3.0). Even though the omission of the letter "s" corresponds to the common first name "Philip", the Panel finds that the disputed domain name <iran-philip.com> can be considered as "typosquatting", especially in the circumstances as addressed under the next two elements below.

Finally, it is well established that the Top-Level Domains ("TLDs") such as ".com" may be disregarded when considering whether a disputed domain name is identical or confusingly similar to the trademark in which the Complainant has rights (see section 1.11 WIPO Overview 3.0).

Therefore, the Panel finds that the disputed domain names are confusingly similar to the Complainant's trademark. Accordingly, the Complainant has made out the first of the three elements that it must establish.

2. No rights or legitimate interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

It is established case law that it is sufficient for the Complainant to make a prima facie showing that the Respondent has no right or legitimate interest in the disputed domain names in order to shift the burden of production to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain names (although the burden of proof always remains on the Complainant) (see section 2.1 WIPO Overview 3.0 and Champion Innovations, Ltd. V. Udo Dussling (45FHH), WIPO case No. D2005-1094; Croatia Airlines d.d. v. Modern Empire Internet Ltd., WIPO case No. D2003-0455; Belupo d.d. v. WACHEM d.o.o., WIPO case No. 2004-0110).

The Panel notes that the Respondent has not been commonly known by the disputed domain names and that the Respondent has not acquired trademark or service mark rights. According to the information provided by the Registrar, the Respondent is known as "hossein gholamrezaei", "meysam habibvand" and/or "Mohsenkamali". The Respondent's use and registration of the disputed domain names was not authorized by the Complainant. There are no indications that a connection between the Complainant and the Respondent existed.

The Panel further observes that all disputed domain names resolve to websites showing the PHILIPS mark and offering products similar or at least related to the Complainant's products for sale. In the Panel's view, this does not amount to a legitimate non-commercial or fair use of the disputed domain names, or use in connection with a bona fide offering of goods and services. Moreover, the Respondent does not accurately and prominently disclose its (absence of) relationship with the Complainant. As a result, the Respondent fails the so-called "Oki Data test" for legitimate resellers, distributors or service providers of a complainant's goods or services. The Panel rather considers that, in the circumstances of the present case, there are serious indications that the Respondent intends to sell counterfeit goods. UDRP panels have categorically held that the use of a domain name for illegal activity (e.g., impersonation or the sale of counterfeit goods) can never confer rights or legitimate interests on a respondent (see section 2.13 of the WIPO Overview 3.0).

The Respondent had the opportunity to demonstrate rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the prima facie case established by the Complainant has not been rebutted.

Therefore, the Panel finds that the Complainant has established that the Respondent has no rights or legitimate interests in the disputed domain names. In light of the above, the Complainant succeeds on the second element of the Policy.

3. Bad faith

The Complainant must prove on the balance of probabilities that the disputed domain names were registered in bad faith and that these are being used in bad faith (see section 4.2 WIPO Overview 3.0 and e.g. Telstra Corporation Limited v. Nuclear Marshmallow, WIPO Case No. D2000-0003; Control Techniques Limited v. Lektronix Ltd, WIPO Case No. D2006-1052).

According to the Panel, the awareness of a respondent of the complainant and/or the complainant's trademark rights at the time of registration can evidence bad faith (see Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz, WIPO Case No. D2011-2209; Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite, WIPO Case No. D2001-1070).

In the present case, the Panel finds that the Respondent must have been aware of the Complainant and its trademark rights when it registered the disputed domain names as:

- the disputed domain names all incorporate the Complainant's distinctive trademark in its entirety, except for the disputed domain name <iran-philip.com> that incorporates the Complainant's PHILIPS trademark in its entirety with the omission of the letter "S";
- the Complainant's marks predate the registration of the disputed domain names;
- the websites linked the disputed domain names include the Complainant's mark and offer products identical or similar to the Complainant's products for sale.

The Panel further holds that the misspelling of the Complainant's mark in the disputed domain name <iran-philip.com> is a form of typosquatting which is further evidence of bad faith (ESPN, Inc. v. XC2, WIPO Case No. D2005-0444; WestJet Airlines Ltd. v. Taranga Services Pty Ltd, WIPO Case No. D2010-1814; and Compagnie Générale des Etablissements Michelin v. Terramonte Corp, Domain Manager, WIPO Case No. D2011-1951).

In the Panel's view, the use of the disputed domain names described above indicates that 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 trademark (see Simyo GmbH v. Domain Privacy Service FBO Registrant / Ramazan Kayan, WIPO Case No. D2014-2227).

Finally, the Respondent did not formally take part in the administrative proceedings. According to the Panel, this serves as an additional indication of the Respondent's bad faith.

Therefore, the Panel finds that, on the balance of probabilities, it is sufficiently shown that the disputed domain names were registered and are being used in bad faith. In light of the above, the Complainant also succeeds on the third and last element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **iran-philip.com** : Transferred
2. **philips-ir.com**: Transferred

3. **iliaphilips.com** : Transferred

PANELLISTS

Name	**Flip Petillion**

DATE OF PANEL DECISION 2025-02-19

Publish the Decision