Decision for dispute CAC-UDRP-108215

Case number	**CAC-UDRP-108215**
Time of filing	**2025-12-15 13:43:53**
Domain names	**philipsvietnam.com**

Case administrator

Name	**Olga Slanařová (Case admin)**

Complainant

Organization	**Koninklijke Philips N.V.**

Complainant representative

Organization	**Coöperatie SNB-REACT U.A.**

Respondent

Organization	**Nguyen Duc Dat**

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

Koninklijke Philips N.V. (Philips), is the owner of the well-known trademark PHILIPS, and has many registered trade marks around the world, including:

1. The EUTM No. 000205971 for PHILIPS, a word mark, registered on 22 October 1999 in classes 3, 6, 7, 8, 9, 10, 11, 14, 16, 18, 20, 21, 25, 28, 35, 37, 38, 40, 41 and 42, in particular in class 11 for “apparatus and installations for lighting;”
2. The International trade mark No. 310459 for PHILIPS, a word mark, registered on 16 March 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, in particular in class 11 for “apparatus and installations for lighting”, with designation for Vietnam;
3. The International trade mark registration No. 991346 for PHILIPS, a figurative stylized mark, registered on 13 June 2008, in classes 3, 5, 7, 8, 9, 10, 11, 14, 16, 18, 20, 21, 25, 28, 35, 36, 37, 38, 41, 42, 44 and 45, in particular in class 11 for “apparatus and installations for lighting”, with designation for Vietnam;
4. The International trade mark registration No. 310460 for PHILIPS, a figurative ‘shield’ mark, registered on 16 March 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, in particular in class 11 for “apparatus and installations for lighting”, with designation for Vietnam.

Further, the Complainant says that PHILIPS is a famous mark world over. The PHILIPS products and services focus on professional health products and services, consumer electronics (TV, audio, accessories, projection apparatus, electronic locks, water purification products), personal care and baby products, and lighting products and domestic appliances.

Many other panels have found it to be a famous mark, including:
a. In CAC Case No. 103077 <philipspulseoximeters.com>, the Panel held that: (“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))”.
b. In CAC Case No. 104326 <philips-orginal.com>, referencing CAC Case No. 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)).”
c. In CAC Case No. 105670 <PhilipsLumea.com>: (“Due to the long existence of Complainant´s marks being well known (see, as an example CAC-UDRP-104326 <philips-orginal.com> for many others), the Respondent must have been well aware of the Complainant and its trademarks when registering the domain name.)”
d. In CAC Case No. 104321 <msk-remont-philips.com etc.> the Panel references the: (“Goodwill flowing from its widely known or famous brands).”
e. In CAC Case No. 103871 <Philips-helper.com etc.>: (“the above leads the Panel to the conclusion that it is more likely than not that the Respondents, being aware of the goodwill of the Complainant’s well-known PHILIPS trademark, have registered the disputed domain names targeting this trademark in an attempt to exploit its goodwill by attracting Internet users and confusing them to believe that the disputed domain names offer the services of an entity that is affiliated to the Complainant”).

FACTUAL BACKGROUND

The Complainant is Coöperatie SNB-REACT U.A acting under a POA dated 4 March 2024 from Koninklijke Philips N.V., Eindhoven, Netherlands,
The Respondent is Nguyen Duc Dat, Ha Noi, Vietnam.
The disputed domain name is <philipsvietnam.com> registered with GMO Internet Group, Inc. d/b/a Onamae.com (the “Registrar”).
Philips, represented by the Complainant, is a global company with international operations all over the world.
The disputed domain name was registered on 20 August 2015. The disputed domain name resolved to a website offering Philips lighting products for sale to consumers in Vietnam.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name 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 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 not , 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 not, 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.

The principle established under the Rules (Rules for Uniform Domain Name Dispute Resolution Policy), paragraph 11(a), is that “unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.” The language of the proceeding is to be held in English.

PRINCIPAL REASONS FOR THE DECISION

Under paragraph 4(a) of the Policy, the Complainant must prove each of the following: (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; (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 and is being used in bad faith. The burden of proof on each element remains with the Complainant and it must discharge it. There are no default decisions.

1 Identical or Confusingly Similar
There is no question that the Complainant has established its rights in the PHILIPS trade mark and name. It is also clear that it is a famous mark.
The disputed domain name incorporates the PHILIPS mark in its entirety together with the geographic term “vietnam”.
According to paragraph 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (hereinafter: the WIPO Jurisprudential Overview 3.0): "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element." The Panel finds the disputed domain name is confusingly similar to the word mark for the first limb of the Policy, the similarity analysis, as it contains and indeed starts with the full word mark of the Complainant, combined with an ending that is geographic. Use of a mark in full often raises the risk of impersonation. This can also indicate a subsidiary or authorized local agent or office. Further, for this limb of the Policy, the suffix is not relevant. However, the choice of .com can compound the impression of an official domain or site or an authorized user.
The Panel finds that the disputed domain name is confusingly similar to the PHILIPS trademark for purposes of paragraph 4(a)(i) of the Policy.

2 Rights or Legitimate Interests
This case turns on the second element of the Policy.
It is well established that there is a shifting evidential burden under this second limb. 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. See WIPO Case No. D2003-0455, Croatia Airlines d. d. v. Modern Empire Internet Ltd..
Past panels have held that a respondent was not commonly known by a disputed domain name if the WHOIS information was not similar to the disputed domain name. See the Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group . The Respondent is not known by the disputed domain names in the WHOIS. In this case, the Respondent is also not connected to nor affiliated with the Complainant and has not received a license or consent to use the marks.
However, no trade mark owner has the unlimited right to monopolize all of the resales of second hand or previously lawfully sold goods, including goods sold wholesale. This is the limit to and/or exhaustion of the rights of a trade mark owner. This balances the rights of owners against those of retailers, second hand dealers, resellers and distributors. The rule also protects nominative and descriptive uses necessary to indicate the kind, quality or purpose of goods, provided the use is exercised in accordance with honest practices — which encompasses a duty to act fairly in relation to the legitimate interests of the trade mark owner.
In UDRP jurisprudence this is reflected in the OKI DATA principles from WIPO Case No.D2001-0903 which provide that a reseller/distributor can make a bona fide offering of goods and services under rule 4(c) (i) of the Policy and have a legitimate interest in a domain name, provided that: (a) The use involves the actual offering of goods and services in issue; (b) The site sells only the trade marked goods; (c) The site accurately and prominently discloses the registrant's relationship with the trade mark holder; (d) The Respondent must not try to "corner the market" in domain names that reflect the trademark. Factor (b) “The site sells only the trade marked goods” has no parallel in the law and will not be applied here.
The Oki Data principles are not limited to authorized resellers. The key question is whether the respondent is engaged in a bona fide reseller/distributor activity and whether the overall presentation is fair, including whether the website accurately discloses the relationship (or lack of official relationship) with the trademark owner. A key factor is (c) accurate disclosure and that is what we must focus on. Here, the record supports the fact that the Respondent was engaged in the resale and distribution of Philips-branded lighting products in Vietnam. The Complainant did not submit evidence of counterfeit sales, a test purchase, failed deliveries, or other indicia that the sales activity was a pretext for deception. Without this evidence, the Panel must assume that the goods are genuine Philip’s goods being sold by reference to the manufacturer’s name. The materials in evidence show that the website clearly and fairly identified the Respondent’s reseller/distributor business as that of EL Mall.vn offered by Megaline Tech & Trading Company Ltd, including its name and address details and it provided contact channels associated with that business. This is on the landing page. The email address is info@elmall.vn and the local showroom and headquarters addresses are shown. The website at the contact page says clearly “Genuine Philips Light Bulb dealer” and “our lighting showrooms are representatives distributing genuine Philips lighting products.” The About us page says, “EL Mall is the official distribution channel for Philips led lighting products…” That is a less clear and more problematic statement however, that translations are informal and we cannot be sure of the exactness. It also adds “Genuine Philips light bulb dealer.” On the whole, an internet user would know that EL Mall.vn was offered by Megaline Tech & Trading Company Ltd and that was the party doing the selling and that they were selling genuine Philips goods by reference to and under their manufacturer’s mark. It is true that the Philips logo is used on a page but to the Panel clearly as a manufacturer’s mark.

Overall in all these circumstances based on the evidence provided, the Panel is satisfied that Internet users were provided with information sufficient to understand that the operator was a genuine reseller/distributor, not Philips or part of it, nor necessarily an authorized or official dealer.
Applying the Oki Data framework to the evidence, the Panel finds, on the balance of probabilities, that: (a) the Respondent was offering the relevant Philips-branded goods; (b) there is no evidence before the Panel that the Respondent was offering counterfeit goods or using the site to promote unrelated third-party products; (c) the site identified the operator and provided verifiable contact information, which is sufficient in the circumstances to disclose the reseller's independent status; and (d) there is no evidence that the Respondent has engaged in a pattern of registering Philips-formative domain names so as to "corner the market" in such domain names. The Panel accepts that the addition of the geographic term "Vietnam" can, in some circumstances, create a risk of implied affiliation. However, the Policy analysis is highly fact-sensitive. Where the record indicates a genuine use by a reseller/distributor, with fair identification of the operator and contact details, and where there is no reliable evidence of deception or counterfeit activity, the Panel is not persuaded that the Respondent's use crossed the line. The Panel is satisfied that the Respondent has a legitimate interest as a reseller because it fairly and prominently discloses its relationship with/to the trademark holder.

Accordingly, the Panel finds that the Respondent has rights or legitimate interests in the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy. The Complainant has therefore failed on the second element.

3 Registered and Used in Bad Faith
Given the Panel's finding above, the determination here, under paragraph 4(a)(iii) of the Policy, follows the second limb.
In any event, on the record before the Panel, the Complainant has not demonstrated that the Respondent registered and used the disputed domain name in bad faith. Rather, the evidence is consistent with a genuine reseller/distributor using the PHILIPS mark to describe and offer Philips-branded products in Vietnam, while identifying itself as the seller, a dealer and distributor and the operator of the site. On this record, the Panel does not find sufficient evidence of intent to mislead Internet users as to source, sponsorship, affiliation, or endorsement and so no bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

For the foregoing reasons, the Panel finds that the Complainant has established the first element of paragraph 4(a) of the Policy, but has not established the second and third elements. The Complaint therefore fails.

The Panel therefore DENIES the Complaint, and the disputed domain name <philipsvietnam.com> shall remain with the Respondent.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **philipsvietnam.com**: Remaining with the Respondent

PANELLISTS

Name	**Victoria McEvedy**

DATE OF PANEL DECISION 2026-01-15

Publish the Decision