1. Procedural History

On 22 July 2019, the Hong Kong International Arbitration Centre (the "Centre") received the Complaint filed by the Complainant in accordance with the CNNIC ccTLD Dispute Resolution Policy ("CNDRP") issued by the China Internet Network Information Center ("CNNIC") and becoming effective on 21 November 2014, the CNNIC ccTLD Dispute Resolution Policy Rules ("CNDRP Rules") issued by the CNNIC and becoming effective on 21 November 2014, and the HKIAC Supplemental Rules to CNNIC ccTLD Dispute Resolution Policy ("Supplemental Rules"), issued by the Hong Kong International Arbitration Centre and becoming effective on 21 November 2014.

On 26 July 2019, Ali Cloud Computing Co., Ltd. ("Registrar") confirmed with the Centre the registration details of the Disputed Domain Name.

On 29 July 2019, the Centre sent an email communication to the Complainant providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint by 3 August 2019. The Complainant submitted the amended Complaint to the Centre on 29 July 2019.

On 9 September 2019, the Centre sent an email communication to the Complainant informing that the CNNIC released the new version of the CNNIC Domain Name Dispute Resolution Policy (the "2019 CNDRP Policy") and China ccTLD Dispute Resolution Policy Rules (the "2019 CNDRP Rules") on 18 June 2019, which governs disputes relating to ".cn" and "中国" domain names, and that the HKIAC Supplemental Rules for CNNIC CNDRP (the "2019 HKIAC Supplemental Rules") was subsequently approved by CNNIC and it became effective on 9 August 2019. The communication also informed the Complainant that the CNDRP has ceased effect and requested the Complainant to complete a new version of Complaint Form C for resubmission to the Centre. The Complainant submitted the updated Complaint to the Centre on 10 September 2019.
On 30 September 2019, the Centre sent the Notification of Commencement of Proceedings to the Respondent informing the Respondent that the proceedings official commenced and requested the Respondent to reply within 20 days (i.e. on or prior to 20 October 2019).

On 22 October 2019, the Centre confirmed receiving no response from the Respondent within the specified time period.

On 28 October 2019, the Centre appointed Mr Eugene Low as the sole panelist.

Language of the Proceedings

The Complainant requested using English to be the language of the proceedings based on the following reasons:

a) the Disputed Domain Name is made up of the words "iqos" and "mall", and the incorporation of "iqos" and "mall" suggests that the Respondent is at the very least, competent with the English language;

b) the commission of a translator would add unnecessary costs to the Complainant, which already bears the cost of filing and will cause delay in commencement of the proceedings; such action is contrary to the Policy's intentions to provide a cost-effective and expedited resolution process; and

c) in compelling the Complainant to translate and submit this complaint in Chinese, the Panel would not be acting in accordance with the overriding principles in Paragraph 10 of the UDRP Rules, in particular 10(b)—that the parties should be treated equally and given a fair opportunity to present their case and 10(c)—which preserves the time span of the process.

The Panel notes that UDRP Rules do not apply to the current proceedings.

Having considered the overall circumstances, the Panel accepts the Complainant's request to use English as the language of the proceedings. While the argument that the Disputed Domain Name is made up of the English words "iqos" and "mall" is not a material consideration, the Respondent was given the opportunity to respond to the Complainant's language request but chose not to make any submissions. With a view to conducting these proceedings in a cost-effective manner, the Panel accepts that these proceedings shall be conducted in English.

2. Factual background

For the Complainant
The Complainant, Philip Morris Products S.A., is a company registered under the laws of Switzerland, and is part of the group of companies affiliated with Philip Morris International Inc. (jointly referred to as "PMI"). PMI is an international tobacco company with products sold in more than 180 countries.

For the Respondent

The Respondent is 李振洲 (Li Zhenzhou) with a contact email address lizhenzhoucg@sina.com.

3. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarised as follows:

PMI is the world's leading international tobacco company, with products sold in more than 180 countries. PMI's unequaled brand portfolio contains brands such as MARLBORO, the world's number one selling cigarette brand since 1972.

In the course of transforming its business from combustible cigarettes to Reduced Risk Products (or "RRPs", which PMI sees to present less risk of harm to smokers who switch to those products versus continued smoking), PMI has developed a number of products including one branded IQOS.

IQOS is a precisely controlled heating device. The IQOS System was first launched by PMI in Nagoya, Japan in 2014 and is now available in key cities in around 44 markets across the world. The IQOS System has achieved considerable international success and reputation. To date, the IQOS System has been almost exclusively distributed through PMI's official IQOS stores and websites and selected authorized distributors and retailers.

The Complainant is the owner of the IQOS trademarks worldwide and owns different trademark registrations and active applications. The Complainant also owns a portfolio of registered trademarks in China, including but not limited to:

<table>
<thead>
<tr>
<th>Trademark</th>
<th>Classes (Goods / services)</th>
<th>Registration Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>IQOS</td>
<td>11</td>
<td>15098769</td>
</tr>
<tr>
<td>iQOS</td>
<td>11</td>
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<tr>
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<td>16314287</td>
</tr>
<tr>
<td>IQOS</td>
<td>34</td>
<td>16314286</td>
</tr>
</tbody>
</table>
i. **Identical or Confusingly Similar:**

The Disputed Domain Name contains the Complainant's IQOS trademark(s) in its entirety. The mere addition of the descriptive word "mall" in the Disputed Domain Name can just not change the fact that the Disputed Domain Name will likely cause confusion to the public.

A simple keyword search on Baidu for "IQOS" reveals that the vast majority (if not all) of the results on the first three pages are related directly to the Complainant. As a brand, IQOS has acquired substantial fame and recognition in China and demonstrates that there is a high degree of actual public (e.g., relevant consumer, industry, media) recognition between the IQOS mark and the Complainant, with a clear corresponding relationship tying the two together in the public's view. Moreover, the Complainant and its registered IQOS Trademarks enjoy a widespread reputation in China and the world with regards to its IQOS Products.

The Complainant and its registered IQOS Trademarks enjoy a widespread reputation with regard to the IQOS System. Therefore, when the public / relevant consumers encounter the Disputed Domain Name, it is very likely that they will wrongly consider the main part of the Disputed Domain Name "iqos" as having its origin in the Complainant's series of registered IQOS Trademarks. Hence, the public / relevant consumers will likely conclude that the website associated with the Disputed Domain Name actually belongs to the Complainant or at the very least, is closely connected with or authorized by the Complainant. The Disputed Domain Name will create the misapprehension that the Respondent is authorized by the Complainant to offer its products or services via the Disputed Domain Name, which will result in public confusion.

ii. **Rights or Legitimate Interests of the Respondent:**

The Respondent is not authorized by the Complainant to use its IQOS Trademarks, so the Respondent does not have any legitimate interest in the Disputed Domain Name.

Further, the Disputed Domain Name is being used in connection with a website that offers for sale what are alleged to be the Complainant's IQOS Systems. The Complainant has not licensed or otherwise authorized the Respondent to use any of its trademarks or to register a domain name incorporating its IQOS trademark (let alone to sell its products). The website prominently and misleadingly presented itself as an official IQOS website in China, under the false impression that it has been authorized by the Complainant, which is not true.
The misleading nature of the Respondent's unauthorized use of the Complainant's registered IQOS Trademarks is further amplified by the fact that the Complainant has not yet commercialized its IQOS System in China. The website under the Disputed Domain Name suggests to relevant consumers that the IQOS System, particularly IQOS 2.4 Plus products, are officially being provided by the Complainant—via the Respondent—in China, as evidenced by the "IQOS 电子烟_IQOS 烟弹_IQOS 电子烟正规官方渠道" ("IQOS e-cigarette _IQOS cartridge _IQOS e-cigarette official channel") language on the website title, and the legend at the bottom of the website associated with the Disputed Domain Name references "Copyright © 2008-2022 IQOS 大中华区总代理 版权所有" (Copyright © 2008-2022 IQOS General agent in Greater China All Rights Reserved), all of which will appear to the general public / relevant consumers as a reference to IQOS, and thus to the Complainant itself.

iii. **Bad Faith:**

The Respondent registered the Disputed Domain Name as a part of a broad and wide-ranging scheme to unfairly associate itself with the Complainant and its IQOS System, as well as services related to them (services which are being provided by the Respondent without the Complainant's authorization).

The Respondent has maliciously registered the Disputed Domain Name with the clear knowledge of the Complainant's registered "IQOS" Trademarks. As mentioned above, the Complainant's "IQOS" Trademarks have achieved a high reputation and recognition amongst consumers on a global basis, including in China, through the Complainant's long-term and extensive promotion (in accordance with local laws) and use.

As the mark IQOS is unique to the Complainant, the Respondent's use of the identical coined term "IQOS" in the Disputed Domain Name simply cannot be considered a coincidence.

The Respondent has also set up and has been operating a website associated with that Disputed Domain Name, on which extensive and unauthorised use of the IQOS trademarks and copyright-protected materials created by and belonging to the Complainant and its affiliates is being made. This also unfairly rides on the Complainant's fame and reputation and is a clear effort to create the false impression that the Respondent's business is supported by, associated with authorised or endorsed by the Complainant.

The associated website is offering IQOS, and the Complainant's HEETS products for sale, which further extends the connection between the Disputed Domain Name and the Complainant's registered IQOS Trademarks in the mind of any relevant consumer.
There is clearly no legitimate, non-commercial or fair use of the Disputed Domain Name being made by the Respondent and the Disputed Domain Name was clearly registered for the sole purpose of trading off the Complainant's name, reputation, trademarks, and services related to the IQOS System. Through the Disputed Domain Name and its associated website, the Respondent's primary aim is to capitalize on the reputation and goodwill of the Complainant and its mark and/or to otherwise mislead Internet users / relevant consumers.

B. Respondent

The Respondent did not submit any response.

4. Findings

Article 8 of the 2019 CNDRP Policy provides that a complaint against a registered domain name shall be supported if the following conditions are fulfilled:

i. The disputed domain name is identical with or confusingly similar to the Complainant's name or mark in which the Complainant has civil rights or interests;

ii. The disputed domain name holder has no right or legitimate interest in respect of the domain name or major part of the domain name;

iii. The disputed domain name holder has registered or has been using the domain name in bad faith.

Article 7 of the 2019 CNDRP Policy states that the Complainant and the Respondent shall bear the burden of proof for their own claims. With reference to the complaint and the attached documents, the Panel decides as follows.

**Identical or Confusingly Similar**

The Panel finds in favour of the Complainant under this element.

The Complainant has submitted copies of the trade mark registrations of its mark "IQOS" in China. The Complainant also claims that it has used this trade mark through its website www.pmi.com since 2014 when the IQOS system was first launched in Japan, and with the IQOS System achieving considerable international success and reputation, approximately 7.3 million relevant consumers have converted to the IQOS System worldwide. The Panel accepts that through registration and use the Complainant has obtained the relevant civil rights or interests in the mark "IQOS" in China under this element.

The Disputed Domain Name <iqos-mall.cn> completely incorporates the Complainant's mark "IQOS". The Panel accepts the Complainant's submission that the mere addition of
the descriptive word "mall" in the Disputed Domain Name is insufficient to distinguish the Disputed Domain Name from the Complainant's trade mark.

**Rights or Legitimate Interests of the Respondent**

The Panel finds in favour of the Complainant.

The Complainant claims that it has not licensed or authorised the Respondent in any way to use the "IQOS" marks, nor is it affiliated with the Respondent. The term "IQOS" is not a term used in connection with any other manufacturer or distributor in China.

The Complainant has raised a prima facie case that the Respondent does not have any rights or legitimate interests in the Disputed Domain Name. The Respondent has not filed any response to show otherwise. Accordingly, the Panel considers that the Complainant has satisfied Article 8.2 of the 2019 CNDRP Policy.

**Bad Faith**

The Panel finds in favour of the Complainant.

The Complainant's evidence has demonstrated the Respondent's bad faith in the registration and/or use of the Disputed Domain Name. In particular:

- The phrase "IQOS" does not have a dictionary meaning. The Respondent's use of the identical term "IQOS" in the Disputed Domain Name is unlikely to be a legitimate coincidence.
- The website leading from the Disputed Domain Name uses the Complainant's stylised form "IQOS" trademark "IQOS" and the Complainant's copyrighted marketing material e.g.
- The website leading from the Disputed Domain Name provides for sale an extensive catalogue of the Complainant's IQOS and HEETS products.

Such evidence supports that the Respondent's registration and use of the Disputed Domain Name is in clear knowledge of the Complainant's trade mark and is in bad faith, and the Panel so finds.

5. **Decision**
The Panel orders that the Disputed Domain Name <iqos-mall.cn> be transferred to the Complainant.

Panelist: Eugene Low
Date: 7 November 2019