

ADMINISTRATIVE PANEL DECISION

Championx USA Inc. v. daveed smith
Case No. D2023-2126

1. The Parties

Complainant is Championx USA Inc., United States of America (“U.S.”), represented by TechLaw Ventures, PLLC, U.S.

Respondent is daveed smith, U.S.

2. The Domain Name and Registrar

The disputed domain name <champonx.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 12, 2023. On May 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 15, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on May 17, 2023, providing the registrant and contact information disclosed by the Registrar and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on May 17, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on May 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 20, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on June 23, 2023.

The Center appointed Jeffrey D. Steinhardt as sole panelist in this matter on June 28, 2023. 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 multinational company supplying specialized solutions and equipment to the petroleum exploration and production industry. Complainant owns many registrations for its CHAMPIONX trademarks worldwide, including for example International Trademark Registration No. 1547390 (figurative), registered December 11, 2019 in Classes 1, 7, 37, 40, and 42 designating the European Union and over two dozen other countries. Complainant also has pending trademark registrations in the U.S. and is listed on the NASDAQ stock exchange.

The disputed domain name was registered May 4, 2023, and resolves to a parking page provided by the Registrar.

5. Parties' Contentions

A. Complainant

Complainant avers that it is a global leader in chemistry solutions and engineered equipment and technologies to help companies drill for and produce oil and gas safely, efficiently and sustainably. Complainant alleges that Respondent used the disputed domain name for an email address to send to a customer of Complainant's a fraudulent Request For Quote ("RFQ"), purportedly on behalf of one of Complainant's companies.¹

Summarizing its legal contentions, Complainant alleges that (1) the disputed domain name is confusingly similar to Complainant's CHAMPIONX trademarks, (2) Respondent has no rights or legitimate interests in the disputed domain name, and (3) the disputed domain name was registered and is being used in bad faith, all in violation of the Policy. On the foregoing basis, Complainant requests transfer.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

For Complainant to prevail under the Policy, it must be established that (1) the disputed domain name is identical or confusingly similar to Complainant's CHAMPIONX trademarks, (2) Respondent has no rights or legitimate interests in the disputed domain name, and (3) the disputed domain name was registered and is being used in bad faith. Policy, paragraph 4(a).

In the absence of a Response, the Panel may also accept as true reasonable factual allegations in the Complaint. See, e.g., *ThyssenKrupp USA, Inc. v. Richard Giardini*, WIPO Case No. [D2001-1425](#) (citing *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#)).

A. Identical or Confusingly Similar

The Panel concludes that the disputed domain name is confusingly similar to Complainant's marks for purposes of the Policy.

¹ A copy of the correspondence is annexed to the Complaint; it shows the use of Complainant's trademarks and company name in what appears to be a letter from Complainant's Facilities Manager in Canada.

UDRP panels commonly disregard Top-Level Domains (“TLDs”) in determining whether a disputed domain name is identical or similar to a complainant’s marks. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.11.1.

Omitting the “.com” TLD, the Panel notes that the disputed domain name is almost identical to Complainant’s mark, having skipped only the single letter “i”. The Panel finds that such misspelling or “typosquatting” by Respondent does not prevent a finding of confusing similarity. See, e.g., [WIPO Overview 3.0](#), section 1.9.

The Panel therefore rules that the disputed domain name is confusingly similar to Complainant’s mark and concludes that the first element of paragraph 4(a) of the Policy is established.

B. Rights or Legitimate Interests

The Panel also concludes that Respondent has no rights or legitimate interests in the disputed domain name.

The Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in a domain name. The list includes: (1) using the domain name in connection with a *bona fide* offering of goods and services; (2) being commonly known by the domain name; or (3) making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers. Policy, paragraphs 4(c)(i) – (iii).

A complainant must show a *prima facie* case that a respondent lacks rights or legitimate interests in a disputed domain name, after which the burden of production passes to the respondent. See, e.g., [WIPO Overview 3.0](#), section 2.1. The absence of rights or legitimate interests is established if a complainant makes out a *prima facie* case and the respondent enters no Response. See *id.*

The Panel accepts Complainant’s undisputed allegations that Respondent has no relevant trademark rights and has no authorization or license to use Complainant’s trademarks in the disputed domain name. The Panel also accepts Complainant’s averment that Respondent is not commonly known by the disputed domain name.

Complainant presents credible evidence that the disputed domain name has been used for fraud and impersonation in emails purporting to make RFQs on behalf of Complainant’s Canadian operations. Respondent has refrained from opposing Complainant’s evidence and the Panel finds that the disputed domain name has been used for such illegal activities.

UDRP Panels have categorically held that the use of a domain name for illegal activity can never confer rights or legitimate interests in a respondent. [WIPO Overview 3.0](#), section 2.13. In light of the evidence and allegations of Complainant, the Panel holds that Respondent is not making a legitimate or fair use of the disputed domain name and that Complainant establishes a *prima facie* case. Respondent has not opposed or rebutted that *prima facie* case.

The Panel holds, therefore, that Respondent has no rights or legitimate interests in the disputed domain name and that the second element of Policy paragraph 4(a) is established.

C. Registered and Used in Bad Faith

The Panel finds that the third element of paragraph 4(a) of the Policy, bad faith registration and bad faith use, is also established, as elaborated below.

The composition of Respondent’s disputed domain name and Respondent’s use of Complainant’s trademarks in emails to third parties make clear that Respondent knew of Complainant’s trademarks and targeted Complainant’s business. This renders beyond dispute that Respondent sought to exploit Complainant’s marks through registration of the confusingly similar disputed domain name, and the Panel so

finds. The Panel holds therefore that Respondent registered the disputed domain name in bad faith. *E.g.*, [WIPO Overview 3.0](#), section 3.2.1.

As explained below, the Panel also rules that the disputed domain name has been used in bad faith.

Complainant presents uncontroverted evidence that Respondent used the disputed domain name without authorization to fraudulently solicit commercial quotations posing as Complainant's business in Canada. Complainant also presents uncontroverted evidence that Respondent impersonated officials of Complainant and copied Complainant's legally registered trademarks in correspondence without authorization. By employing the disputed domain name for its fraudulent scheme, the Panel finds that Respondent intended through deceit to disrupt Complainant's business for its own gain.

Under Policy, paragraph 4(b)(iii), this is direct evidence of bad faith. *Graybar Services Inc. v. Graybar Elec, Grayberinc Lawrence*, WIPO Case No. [D2009-1017](#) (finding that use of disputed domain name to perpetrate fraud by sending emails purporting to be from the complainant's senior executives brought case within provisions of paragraph 4(b)(iii) of the Policy); *accord, Haas Food Equipment GmbH v. Usman ABD, Usmandel*, WIPO Case No. [D2015-0285](#); [WIPO Overview 3.0](#), section 3.4. See, *e.g.*, *Beiersdorf AG v. Beiersdorf & Eunon Federation, Charles Tan*, WIPO Case No. [D2013-1939](#) (use of disputed domain name to create fictitious email addresses to masquerade as complainant with aim of defrauding contractors who mistakenly believed they were providing services at complainant's request constituted bad faith under Policy, paragraph 4(a)(iii)).

Respondent's failure to submit a response to the Complaint and the failure to provide accurate or complete contact details as required by Respondent's agreement with the Registrar are additional evidence of use in bad faith. *Telstra Corp. Ltd. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). The Panel concludes therefore that Respondent registered and used the disputed domain name in bad faith.

Accordingly, the Panel holds that paragraph 4(a)(iii) of the Policy is satisfied.

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 name <champonx.com> be transferred to Complainant.

/Jeffrey D. Steinhardt/

Jeffrey D. Steinhardt

Sole Panelist

Date: July 12, 2023