

## **ADMINISTRATIVE PANEL DECISION**

Champion Products Europe Limited v. Nadine Gottschalk, nadine gottschalk  
Case No. D2023-0527

### **1. The Parties**

The Complainant is Champion Products Europe Limited, Ireland, represented by Bird & Bird LLP, United Kingdom.

The Respondent is Nadine Gottschalk, nadine gottschalk, Germany.

### **2. The Domain Name and Registrar**

The disputed domain name <championturkiyeoutlet.com> (the "Domain Name") is registered with 1API GmbH (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 3, 2023. On February 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 9, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 9, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on February 13, 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 the Respondent of the Complaint, and the proceedings commenced on February 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 7, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 8, 2023.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on March 15, 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**

The Complainant is a manufacturer and marketer of everyday basic apparel brands in the Americas, Australia, Europe, and Asia. The Complainant has offered its apparel under the CHAMPION brand since 1919.

The Complainant is the owner of numerous CHAMPION trademark registrations, including:

- the European Union Trade Mark Registration CHAMPION No. 000122630 registered on August 10, 1998;
- the European Union Trade Mark Registration CHAMPION (figurative) No. 000122598 registered on October 6, 1998;
- the European Union Trade Mark Registration CHAMPION (figurative) No. 005777834 registered on January 9, 2008;
- the Turkish Trademark Registration CHAMPION No. 2018 21261 (Grant No.) granted on June 26, 2018.

Moreover, the Complainant's holding company Hanesbrands, Inc., is the owner of numerous domain names incorporating the CHAMPION trademark, such as <champion.com> and <championstore.com>.

The Domain Name was registered on March 28, 2022.

At the time of submitting the Complaint, the Domain Name resolved to the website offering for sale in Turkey and in other European countries products bearing the CHAMPION trademark (the "Website"). As of the date of this Decision, the Domain Name resolves to an inactive website.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant requests that the Domain Name be transferred to the Complainant. According to the Complainant, each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

First, the Complainant submits that the Domain Name is confusingly similar to the trademark in which the Complainant has rights.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the Domain Name.

Third, the Complainant submits that the Domain Name was registered and is being used in bad faith.

##### **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

#### **6. Discussion and Findings**

Paragraph 4(a) of the Policy places a burden on the Complainant to prove the presence of three separate elements, which can be summarized as follows:

- (i) the 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 the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

The requested remedy may only be granted if the above criteria are met.

At the outset, the Panel notes that the applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”. See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

### **A. Identical or Confusingly Similar**

The first element requires that the Complainant must establish is that the Domain Name is identical or confusingly similar to the trademark in which the Complainant has rights.

The Complainant holds valid CHAMPION trademark registrations. The Domain Name incorporates this trademark in its entirety. As numerous UDRP panels have held, incorporating a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to a registered trademark (see *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS COMPUTER INDUSTRY (a/k/a EMS)*, WIPO Case No. [D2003-0696](#)).

The addition of the term “turkiyeoutlet” in the Domain Name does not prevent a finding of confusing similarity between the Domain Name and the Complainant’s CHAMPION trademark. UDRP panels have consistently held that 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. See section 1.8, [WIPO Overview 3.0](#).

The Top-Level Domain (“TLD”) “.com” in the Domain Name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. See section 1.11.1, [WIPO Overview 3.0](#).

Given the above, the Panel finds that the Domain Name is confusingly similar to the Complainant’s trademark. Thus, the Complainant has proved the requirements under paragraph 4(a)(i) of the Policy.

### **B. Rights or Legitimate Interests**

Under the second element, the Complainant must prove is that the Respondent has no rights or legitimate interests in the Domain Name.

The respondent may establish a right or legitimate interest in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

- (i) that it has used or made preparations to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services prior to the dispute; or
- (ii) that it is commonly known by the domain name, even if it has not acquired any trademark rights; or
- (iii) that it is making a legitimate, noncommercial or fair use of the domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

Although given the opportunity, the Respondent has not submitted any evidence indicating that any of the circumstances foreseen in paragraph 4(c) of the Policy are present in this case.

On the contrary, it results from the evidence in the record that the Complainant’s CHAMPION trademark registrations predate the Respondent’s registration of the Domain Name. There is no evidence in the case record that the Complainant has licensed or otherwise permitted the Respondent to use the CHAMPION

trademark or to register the Domain Name incorporating this trademark. There is also no evidence to suggest that the Respondent has been commonly known by the Domain Name.

Moreover, it results from the evidence in the record that the Respondent does not make use of the Domain Name in connection with a *bona fide* offering of goods or services, nor does it make a legitimate, noncommercial or fair use of the Domain Name without intent for commercial gain. On the contrary, the Domain Name resolved to the Website offering for sale in Turkey and in other countries around Europe products bearing the CHAMPION trademark and displaying the official images of the Complainant's products. The Website also invites Internet users to enter personal and financial information to place orders for products which the Complainant believes to be either counterfeits and/or fake listings used as part of a phishing scheme and/or unauthorized resales. (For completeness, the Panel notes that even if this were a case of unauthorized resale, which in principle may be permissible, the Oki Data criteria are not met insofar as the Website (when active) gave the impression it is hosted or authorized by the Complainant (e.g., aside from the look and feel, it said "Powered by Champion") which is clearly not the case.) Such use of the Domain Name does not confer rights or legitimate interests on the Respondent.

Furthermore, the composition of the Domain Name, wholly incorporating the Complainant's trademark with the term "turkiyeoutlet", carries a risk of implied affiliation. See section 2.5.1, [WIPO Overview 3.0](#).

Given the above, the Respondent has failed to invoke any circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in respect of the Domain Name. Thus, there is no evidence in the case file that refutes the Complainant's *prima facie* case. The Panel concludes that the Complainant has also proved the requirement under paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

Under the third element, the Complainant must prove is that the Domain Name has been registered and is being used in bad faith.

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. See section 3.1, [WIPO Overview 3.0](#).

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use includes without limitation:

- (i) circumstances indicating the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the domain name were registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding domain name, provided it is a pattern of such conduct; or
- (ii) circumstances indicating that the domain name was registered primarily for the purpose of disrupting the business of a competitor; or
- (iii) circumstances indicating that the domain name has intentionally been used in an attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with a trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on a website or location.

As indicated above, the Complainant's rights in the CHAMPION trademark predate the registration of the Domain Name. This Panel finds that the Respondent was clearly aware of the Complainant's trademark. This finding is supported by the content of the Website, falsely suggesting that it is an official Complainant's website or of an entity affiliated to or endorsed by the Complainant such as its official retailer. Moreover, it

has been proven to the Panel's satisfaction that the Complainant's CHAMPION trademark is well known and unique to the Complainant. Thus, the Respondent could not likely reasonably ignore the reputation of products under this trademark. In sum, the Respondent in all likelihood registered the Domain Name with the expectation of taking advantage of the reputation of the Complainant's CHAMPION trademark.

Moreover, the Domain Name was used in bad faith by the Respondent to attract Internet users to the Website impersonating the Complainant or an entity affiliated to or endorsed by the Complainant. By reproducing the Complainant's CHAMPION trademark in the Domain Name, offering for sale products bearing the CHAMPION trademark, as well as displaying the official images of the Complainant's products on the Website, the Respondent intends to profit from the confusion created with Internet users, as it suggests association with the Complainant. Furthermore, the Website does not disclose the Respondent's relationship (or the lack thereof) with the Complainant's as the CHAMPION trademark holder – to the contrary it uses language that makes it appear it is affiliated with the Complaint, which is not the case.

In consequence, the Panel finds that the evidence in the record demonstrates that the Respondent uses the Domain Name deliberately in order to take advantage of the Complainant's reputation and to give credibility to its services.

For the reasons discussed above, the Panel finds that the Complainant has proved the requirements under paragraph 4(a)(iii) of the Policy.

## **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 Domain Name <championturkiyeoutlet.com> be transferred to the Complainant.

*/Piotr Nowaczyk/*

**Piotr Nowaczyk**

Sole Panelist

Date: March 29, 2023