

ADMINISTRATIVE PANEL DECISION

Championx USA Inc. v. gass winks
Case No. D2022-1263

1. The Parties

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

Respondent is gass winks, United States.

2. The Domain Name and Registrar

The disputed domain name <championx.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 9, 2022. On April 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 12, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 April 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 3, 2022. Respondent did not submit any response. Accordingly, the Center notified the Parties of Respondent’s default on May 4, 2022.

The Center appointed Ingrida Kariņa-Bērziņa as the sole panelist in this matter on May 13, 2022. 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 an American company offering goods and services for the oil and gas industry internationally. It operates its primary business website at the domain name <championx.com>. It is the proprietor of several registrations and numerous applications to register its CHAMPIONX mark, including the following:

- German Trademark No. 302019017114 for CHAMPIONX (device mark), registered on September 27, 2019, for goods and services in classes 1, 7, 37, 40 and 42;
- International Trademark No. 1650226 for CHAMPIONX (device mark), registered on May 26, 2021, for goods and services in classes 1, 4, 7, 9, 35, 37, 40 and 42.

The disputed domain name was registered on August 18, 2021. It does not resolve to an active website.

5. Parties' Contentions

A. Complainant

Complainant's contentions may be summarized as follows:

Under the first element, Complainant states that it is the American subsidiary of ChampionX Corporation, a company formed as the result of a merger completed in 2020 and previously known as Apergy Corporation, with origins in the 19th century. Complainant is a global leader in chemistry solutions and highly engineered equipment and technologies that help companies drill for and produce oil and gas around the world. Complainant is a publicly traded company on the Nasdaq exchange, has over 6,000 employees, and operations in over 60 countries. The disputed domain name is a deliberate misspelling of Complainant's CHAMPIONX mark.

Under the second element, Complainant states that Respondent is not an authorized dealer of goods or services in connection with which the mark is used, nor are licensed to use such trademark. Further, Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain, nor is Respondent commonly known by this domain name. The disputed domain name is not being used by Respondent. To the best of Complainant's belief, Respondent has no registered rights in any mark containing the element "chamiponx".

Under the third element, Complainant states that Respondent must have had knowledge of Complainant at the time that the disputed domain name was registered. Respondent has attempted to conceal its identity by providing false contact information. The circumstances indicate that Respondent has passively held the disputed domain name in bad faith.

Complainant requests transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires Complainant to make out all three of the following:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

(ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

A. Identical or Confusingly Similar

Complainant has provided evidence establishing that it has trademark rights in the CHAMPIONX mark through registrations in several jurisdictions. Complainant thereby satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.2.

In comparing Complainant’s CHAMPIONX mark with the disputed domain name, the Panel finds that the disputed domain name is confusingly similar to Complainant’s mark. The disputed domain name consists of a misspelling of Complainant’s mark, wherein the letters “p” and “i” are transposed. It is the consensus view of UDRP panels that, in such cases, the domain name is considered confusingly similar to the relevant mark because it is sufficiently recognizable within the disputed domain name. See [WIPO Overview 3.0](#), section 1.9. See also, for example, *Wachovia Corporation v. Peter Carrington*, WIPO Case No. [D2002-0775](#); *LinkedIn Corporation v. Daphne Reynolds*, WIPO Case No. [D2015-1679](#).

It is the well-established view of UDRP panels that the generic Top-Level Domain (“gTLD”) “.com” is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test (see [WIPO Overview 3.0](#), section 1.11.1, and cases cited thereunder). Accordingly, the Panel finds that Complainant has established the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The circumstances stated in the Complaint and evidence in support set forth in the annexes indicate that Respondent has no rights or legitimate interests in the disputed domain name. The Panel finds that the evidence submitted by Complainant establishes a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name.

Respondent is not authorized by Complainant and is not commonly known by the disputed domain name. Furthermore, the disputed domain name comprises a misspelling of Complainant’s mark, thereby creating a likely risk of confusion with Complainant. The disputed domain name is not being used for any *bona fide* purpose.

Pursuant to [WIPO Overview 3.0](#), section 2.1, and cases thereunder, where Complainant makes out a *prima facie* case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. Respondent has failed to respond to the Complaint and therefore has not provided any information that would refute Complainant’s contentions. See, for example, *Missoni S.p.A. v. 米索尼股份有限公司/Missoni Limited*, WIPO Case No. [D2015-0843](#).

Accordingly, the Panel finds that Complainant has established the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation”, are evidence of the registration and use of a disputed domain name in bad faith:

(i) circumstances indicating that Respondent has registered or has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to

Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or

(ii) Respondent has registered the disputed domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or

(iii) Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the disputed domain name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel finds that Complainant's trademark rights predate the registration of the disputed domain name, and that the disputed domain name consists of an evident misspelling of Complainant's mark. The disputed domain name is not being used. In such cases, the consensus approach of UDRP panels is to consider (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3, and cases cited therein, including *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

The Panel finds that Complainant has provided evidence that its CHAMPIONX mark has been registered and is actively in use in several countries. The Panel considers that the mark, while relatively new, satisfies the condition of distinctiveness through registration and use. Respondent has provided no response and has concealed its true identity by providing false contact information. The Panel finds that, on balance of probabilities, the evidence supports a finding that Respondent has registered and is passively holding the disputed domain name, which comprises a letter combination that forms no recognizable word but that closely approximates Complainant's CHAMPIONX mark, in bad faith. In particular, the Panel notes that the disputed domain name was registered shortly after Complainant had filed a number of applications to register the mark in jurisdictions around the world.

Respondent has failed to provide any evidence of actual or contemplated good faith use, and the Panel cannot draw any inferences favorable to Respondent on this point.

The Panel therefore finds that Complainant has established the third element under paragraph 4(a) 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 disputed domain name <championx.com> be transferred to Complainant.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: May 27, 2022