

ADMINISTRATIVE PANEL DECISION

Championx USA Inc. v. Peter Schwales
Case No. D2022-4626

1. The Parties

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

The Respondent is Peter Schwales, 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 December 2, 2022. On December 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 6, 2022, the Registrar transmitted by email to the Center its verification response confirming that the 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 the Respondent of the Complaint, and the proceedings commenced on December 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 28, 2022.

The Center appointed Andrew J. Park as the sole panelist in this matter on January 16, 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, ChampionX USA, Inc. is a subsidiary of ChampionX corporation, a global leader in chemistry programs and services, drilling technology, artificial lift solutions, and automation technologies, especially in highly engineered equipment technologies that help companies drill for and produce oil and gas safely and sustainably around the world. ChampionX Corporation, formerly known as Apergy Corporation announced the completion of the merger of the businesses of Apergy Corporation and ChampionX Holding Inc., the former upstream energy business of Ecolab Inc on June 3, 2020. ChampionX's history is built on over a century of experience, dating back to the petroleum industry's infancy.

The Complainant owns registered Trademark Applications as follows:

Trademark	Registration Number	Registration Date	Classes
CHAMPIONX	Germany Trademark Registration No. 302019017114	September 27, 2019	goods and services for drilling and producing oil and gas, including products in international classes 1, 7, 37, 40 and 42.
CHAMPIONX	Mexico Trademark Registration No. 2087809	February 26, 2020	goods and services for drilling and producing oil and gas, including products in international classes 40.

Additionally, the Complainant holds trademark rights in CHAMPIONX mark in multiple countries, including trademark registrations in Singapore, the Philippines, and two International registrations under the Madrid Protocol. The Complainant also uses the CHAMPIONX mark in its domain name, <championx.com> for its official website through which the Complainant promotes its goods and services for drilling and producing oil and gas.

The disputed domain name <champiionx.com> was registered on November 24, 2022. Currently, the disputed domain name is inactive but it was used to send fraudulent emails.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name should be transferred to the Complainant for the following reasons:

(a) The disputed domain name is identical or confusingly similar to the Complainant's trademark CHAMPIONX in which the Complainant has rights.

The Complainant holds trademark registrations in multiple countries including Singapore, the Philippines, Mexico, Jordan, and the United Arab Emirates. The Complainant contends that the disputed domain name is a misspelling of the Complainant's trademark CHAMPIONX, varying from the correct spelling by the addition of a single inserted letter "i". A slight difference between the Complainant's trademark and the disputed domain name does not reduce the confusing similarity.

(b) The Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant contends that the Respondent is not an authorized dealer of goods and services in connection with which the Complainant's trademark CHAMPIONX is used, nor is it licensed to use such trademark. Further, the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain, nor is the Respondent commonly known by this disputed domain name. The disputed domain name is not in use with a functional website by the Respondent, and

also, there is no evidence of the Respondent's use of, nor demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services. The disputed domain name was used in connection with a fraudulent scheme.

(c) The disputed domain name was registered and is being used in bad faith.

The Complainant contends that the Respondent used the disputed domain name as an email address and sent it to one of the Complainant's customers, making it appear that it was from the Complainant, and attempted to commit a fraudulent scheme purporting to present a change to "the preferred information for receiving funds" for submission of payments. The Complainant argues that this situation where the Respondent used the disputed domain name to masquerade as the Complainant for the purpose of obtaining gain as part of a fraudulent scheme constitutes bad faith registration and use of the disputed domain name.

In short, the Complainant's argument is that the Respondent's unauthorized registration of the disputed domain name and its holding, likely with the aim of fraudulent uses, are for the purpose of commercial gain and, as such, constitutes bad faith registration and use.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

This element consists of two parts: first, whether the Complainant has rights in a relevant trademark and, second, whether the disputed domain name is identical or confusingly similar to that trademark.

The Complainant has established rights in the CHAMPIONX trademark.

Secondly, the Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademark. The Panel notes that the disputed domain name comprises the Complainant's trademark with a single misspelling of the element of the mark. The Complainant's trademark CHAMPIONX is recognizable in the disputed domain name. A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered to be confusingly similar to the relevant mark for purposes of the first element. See section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

Further, the addition of the generic Top-Level Domain ("gTLD") ".com" may be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark (see *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#)).

For these reasons, pursuant to the Policy, paragraph 4(a)(i), the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the Respondent carries the burden of demonstrating its rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. (See *Danzas Holding AG, DHL Operations B.V. v. Ma Shikai*, WIPO Case No. [D2008-0441](#); [WIPO Overview 3.0](#), section 2.1 and cases cited therein).

Here, the Panel finds that the Complainant has made out a *prima facie* case.

The Panel finds that the Respondent has no relationship with or authorization from the Complainant to use its trademarks, CHAMPIONX. There is nothing in the record to suggest that the Respondent has made a legitimate noncommercial or fair use of the disputed domain name or has been commonly known by the disputed domain name. Also, there is no evidence that the Respondent has the intention to use the disputed domain name in connection with a *bona fide* offering of goods or services. The Panel's view is that these facts may be taken as true in the circumstances of this case.

Accordingly, the Panel holds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides a non-exclusive list of circumstances that evidence registration and use of a domain name in bad faith. Any one of the following is sufficient to support a finding of bad faith:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark, or to a competitor of that the complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the 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 the respondent has engaged in a pattern of such conduct; or

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

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

The Complainant claims that the Respondent registered and is using the disputed domain name in bad faith in violation of the Policy, paragraph 4(a)(iii).

As stated previously, the Respondent did not file any Response to the Complaint, failing thereby to rebut the Complainant's allegations of the Respondent's bad faith registration and use of the disputed domain name.

Nevertheless, the Panel still has the responsibility of determining which of the Complainant's assertions are established as facts and whether the conclusions asserted by the Complainant can be drawn from the established facts (see *Harvey Norman Retailing Pty Ltd v. Oxford-University*, WIPO Case No. [D2000-0944](#)).

The Panel finds the Respondent intentionally registered the disputed domain name in bad faith. The Respondent registered the disputed domain name, which is confusingly similar to the Complainant's trademark, CHAMPIONX. The Respondent inserted one more letter "i" to create the disputed domain name. Such disputed domain name can cause confusion among Internet consumers because it can be difficult for consumers to distinguish between the Complainant's trademark CHAMPIONX and the disputed domain name <championx.com>. The act of "typo squatting", the registration of a domain name that is merely a common misspelling of a mark in which a party has rights, has been recognized as evidence of bad faith registration. [WIPO Overview 3.0](#), section 3.2.1. The Panel has inferred that the Respondent should have had knowledge of the Complainant and its business because the disputed domain name is not only

confusingly similar to the Complainant's trademark, but also the Complainant and the Respondent are both located in the United States.

Also, the Panel notes that the Respondent lacks any rights and legitimate interests in the name, "championx" and has no trademark rights for the term "championx". Further, the Respondent used the disputed domain name to masquerade as the Complainant for monetary gain. The Respondent pretended that it was the Complainant or that it was associated with the Complainant by using the disputed domain name in its email address in order to cause the recipient - an Internet customer - to change its payment method so that the Respondent could receive the funds, all of which constitutes a fraudulent scheme.

These facts, when taken together, lead this Panel to conclude that the Respondent registered and used the typo-squatted disputed domain name to confuse and mislead Internet users and attempted to obtain profit, all of which clearly evidence bad faith registration and use of the disputed domain name.

Accordingly, the foregoing evidence demonstrates that the Respondent had knowledge of the Complainant's trademark and business when it registered the disputed domain name and that it attempted to falsely imply that there was a business relationship between the disputed domain name and the Complainant by creating a likelihood of confusion. Thus, it is clear that the Respondent registered and used the disputed domain name in bad faith pursuant to the Policy, paragraph 4(a)(iii).

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 the Complainant.

/Andrew J. Park/

Andrew J. Park

Sole Panelist

Date: January 30, 2023