

ADMINISTRATIVE PANEL DECISION

Champion Products Europe Limited v. Sebastian Oster
Case No. D2023-0054

1. The Parties

The Complainant is Champion Products Europe Limited, Ireland, represented by Studio Legale Bird & Bird, Italy.

The Respondent is Sebastian Oster, Germany.

2. The Domain Name and Registrar

The disputed domain name <champion-greece.com> is registered with Key-Systems GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 5, 2023. On January 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 6, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on January 11, 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 January 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 January 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 17, 2023.

The Center appointed Christian Gassauer-Fleissner as the sole panelist in this matter on February 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

The Complainant is a limited liability company located in Dublin, Ireland and part of the Hanesbrands group. The Complainant is a manufacturer of everyday basic apparel and promotes as well as distributes the products all over the world, *inter alia* under the well-known trademark CHAMPION since 1919.

The Complainant is the owner of the trademark CHAMPION (“CHAMPION trademark”), including:

- European Union Trade mark registration CHAMPION No. 000122630, registered on August 10, 1998;
- European Union Trade mark registration CHAMPION No. 000122598, registered on October 6, 1998;
- European Union Trade mark registration CHAMPION No. 005777834, registered on January 9, 2008;
- European Union Trade mark registration CHAMPION No. 018329326, registered on February 24, 2022; and
- European Union Trade mark registration CHAMPION No. 018329321, registered on August 30, 2021.

The Complainant is also owner of numerous domain names including the CHAMPION trademark, *inter alia* the domain names <championstore.com> and <champion.com>.

The Respondent registered the disputed domain name on March 15, 2022. The Complainant has provided evidence showing that it resolved to a website that allegedly promotes CHAMPION-branded products and includes content from the Complainant’s official websites.

5. Parties’ Contentions

A. Complainant

The arguments put forward by the Complainant can be summarized as follows:

On the first element of the Policy, the Complainant claims that the disputed domain name is confusingly similar to the Complainant’s CHAMPION trademark. The Complainant’s rights in its CHAMPION trademark predate the Respondent’s registration of the disputed domain name. The disputed domain name includes the entire CHAMPION trademark, with only the addition of a geographic term “Greece” and the generic Top-Level Domain (“gTLD”) “.com”. The inclusion of a geographic term, such as “Greece”, does not distinguish the disputed domain name from the CHAMPION trademark.

On the second element of the Policy, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. There is no relationship between the Complainant and the Respondent giving rise to any license, permission, or other right by the Respondent could own or use any domain name incorporating the Complainant’s CHAMPION trademark. The Respondent has never been given permission by the Complainant to use the Complainant’s CHAMPION trademark for any purpose. Further, nothing in the public Whois information or the record demonstrates that the Respondent is commonly known by the disputed domain name.

On the third element of the Policy, the Complainant asserts that the Respondent registered and used the disputed domain name in bad faith. The Respondent’s bad faith registration and use of the disputed domain name are established by the fact that the disputed domain name incorporates the Complainant’s entire CHAMPION trademark, with only the addition of a descriptive or geographic term, and the disputed domain name was registered decades after the Complainant’s CHAMPION trademark became well-known. The Respondent’s reproduction and display of the Complainant’s logo leaves no doubt that the Respondent knew of the Complainant and its rights prior to registering and using the disputed domain name and constitutes further infringement of the Complainant’s intellectual property rights. In view of the extensive use of the Complainant’s CHAMPION trademark, and the fact that the Respondent has no rights in it, the Complainant reasonably believes that the Respondent registered and is using the disputed domain name not for any legitimate noncommercial or fair use purpose, but rather to phish for personal and financial information.

The Respondent's bad-faith registration and use of the disputed domain name are also evidenced by the fact that the Respondent has intentionally attempted to attract Internet users to the Respondent's websites by creating a likelihood of confusion with the Complainant's CHAMPION trademark as to the source, affiliation, or endorsement of the Respondent's website. After seeing the CHAMPION trademark in the disputed domain name, with the addition of a geographic term, consumers will initially be confused as to the website's association with or sponsorship by the Complainant. The above is confirmed considering that the Complainant has already received a complaint from one of its customers who have executed a purchase from the website at the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel's decision be made "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".

It has been a consensus view in previous UDRP decisions that a respondent's default (*i.e.*, failure to submit a response) would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true (see section 4.3 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the Complaint, namely that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant, under the first requirement of paragraph 4(a)(i) of the Policy, needs to establish that the disputed domain name is identical or confusingly similar to a trademark or a service mark in which it has rights.

The Complainant is registered as the owner of several trademarks containing the term "Champion". Suitable evidence was submitted. Consequently, the Panel finds that the Complainant has proven that it has rights in the CHAMPION trademark.

The disputed domain name contains the CHAMPION trademark entirely with the addition of the geographic term "Greece" and a hyphen as well as the gTLD ".com". Section 1.8 of [WIPO Overview 3.0](#) states: "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. The nature of such additional term(s) may however bear on assessment of the second and third elements." Further, section 1.11.1 of [WIPO Overview 3.0](#) states: "The applicable TLD in a domain name (*e.g.*, '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test." The gTLD ".com" will therefore be discounted in the Panel's consideration of confusing similarity. Furthermore, the addition of a hyphen does not prevent a finding of identity or confusing similarity (see *The Channel Tunnel Group Ltd. v. John Powell*, WIPO Case No. [D2000-0038](#)). The Panel finds that the relevant trademark CHAMPION within the

disputed domain name is recognizable, so that the additional elements do not prevent a finding of confusing similarity.

For the reasons above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks, and that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The second element the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Regarding the second element of the Policy, section 2.1 of [WIPO Overview 3.0](#), states, "where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element".

According to the Complainant, the Complainant has not authorized the Respondent to use the Complainant's trademarks, the Respondent is not commonly known by the disputed domain name, and the Respondent has not used the disputed domain name for a legitimate noncommercial or fair use, nor used it in connection with a *bona fide* offering of goods or services. Further, the Respondent has not attempted to justify why the disputed domain name was registered. In addition, the Panel finds that the composition of the disputed domain name, adding the geographic term "Greece" to the Complainants' CHAMPION trademark, coupled with the use of the disputed domain name to resolve to a website in which the Respondent tries to impersonate the Complainant, affirms the Respondent's intention of taking unfair advantage of the likelihood of confusion between the disputed domain name and the Complainant as to the origin or affiliation of the website at the dispute domain name.

Given the Complainant's customer's complaint and failed purchase, it is apparent that the disputed domain name is not being used in connection with a *bona fide* offering of goods or services, but rather most likely in furtherance of fraud or phishing.

Accordingly, the Panel finds that the Complainant has made a *prima facie* showing of the Respondent's lack of rights or legitimate interests in respect of the disputed domain name, which has not been rebutted by the Respondent. The Panel therefore finds that the Complainant has established the second element of the Policy in accordance with paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires that the Complainant demonstrate that the Respondent registered or is using the disputed domain name in bad faith. Section 3.1 of [WIPO Overview 3.0](#) states, "bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark". Section 3.2.2 of the [WIPO Overview 3.0](#) reads: "Noting the near instantaneous and global reach of the Internet and search engines and particularly in circumstances where the complainant's mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known that its registration would be identical or confusingly similar to a complainant's mark. Further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent's claim not to have been aware of the complainant's mark."

Considering the reputation and public presence of the Complainant, it is unlikely that the respondent had no knowledge of the CHAMPION trademark. The Panel finds that the incorporation of the trademark

CHAMPION within the disputed domain name and its use for a website impersonating the Complainant concretely reflects the Respondent's actual awareness of and intent to target the Complainant. The Complainant provided evidence showing that the disputed domain resolved to a website that promotes CHAMPION-branded products and includes content from the Complainant's official websites. Moreover, the Complainant provided evidence showing that the Complainant has already received a complaint from one of its customers who have executed a purchase from the website at the disputed domain name. In light of the lack of any rights to or legitimate interests in the disputed domain name of the Respondent and in the absence of any conceivable good faith use, the Panel finds from the present circumstances that the Respondent has intentionally attempted to attract for commercial gain Internet users to its website or affect the commercial activities of the Complainant by creating a likelihood of confusion with the Complainant's trademarks.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of 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 disputed domain name, <champion-greece.com>, be transferred to the Complainant.

/Christian Gassauer-Fleissner/

Christian Gassauer-Fleissner

Sole Panelist

Date: March 16, 2023