

ADMINISTRATIVE PANEL DECISION

Puffer-Sweiven LP v. erik andersson
Case No. D2024-4717

1. The Parties

The Complainant is Puffer-Sweiven LP, United States of America ("United States"), represented by Reed Smith LLP, United States.

The Respondent is erik andersson, Sweden.

2. The Domain Name and Registrar

The disputed domain name <pufferf.com> is registered with Porkbun LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 14, 2024. On November 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 15, 2024, 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 (Whois Privacy, Private by Design, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 19, 2024, 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 November 20, 2024.

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 November 25, 2024. On November 25, 2024, the Complainant submitted a request for the suspension of the proceeding to facilitate settlement discussions. Settlement not having been reached, the proceeding was reinstituted on December 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 15, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 16, 2025.

The Center appointed Steven A. Maier as the sole panelist in this matter on January 22, 2025. 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 partnership based in Texas, United States. It sells and services industrial valves and associated equipment for the petrochemical, mining, gas, power generation and wastewater industries.

The Complainant is the owner of United States trademark registrations for the mark PUFFER including, for example, United States trademark registration number 5732792 for the word mark PUFFER, registered on April 23, 2019 in International Class 35.

The Complainant operates a website at “www.puffer.com”.

The disputed domain name was registered on October 7, 2024.

The disputed domain name does not appear to have resolved to any active website.

5. Parties’ Contentions

A. Complainant

The Complainant states that it has used the PUFFER trademark continuously since 1945, and that it has invested significant financial resources in building a strong reputation and extensive goodwill in that mark. It further asserts that customers have come to recognize the mark as a source indicator of exceptional quality.

The Complainant contends that the disputed domain name is confusingly similar to its PUFFER trademark. It submits that the disputed domain name incorporates that trademark in full, with the addition of the letter “f”, which is next to the letter “r” on a standard keyboard. The Complainant submits that the additional letter “f” does not distinguish the disputed domain name from its trademark, and seeks to take advantage of a common misspelling of that mark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no relationship with the Respondent and has never authorized it to use its PUFFER trademark, that the Respondent has not commonly been known by the disputed domain name and that the Respondent is not making any bona fide commercial use of the disputed domain name.

The Complainant submits that the disputed domain name has been registered and is being used in bad faith. It asserts that, in view of the distinctiveness, longstanding use and reputation of its PUFFER trademark, there should be a presumption that the Respondent registered the disputed domain name with that trademark in mind. The Complainant also highlights the similarity between the disputed domain name and its URL at “www.puffer.com”. The Complainant submits that there is no use the Respondent could make of the disputed domain name without creating a misleading impression of a connection with the Complainant. It adds that the Respondent’s registered name appears to be fictitious and does not reflect the registrant’s email address.

B. Respondent

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

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (i) the disputed 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 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 has established that it is the owner of registered trademark rights for the mark PUFFER. The disputed domain name incorporates that trademark in full, with the addition only of the letter “f”, which does not prevent the Complainant’s trademark from being recognizable within the disputed domain name.

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant’s submissions set out above give rise to a prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. Nor does any use appear to have been made of the disputed domain name that would support a finding of rights or legitimate interests on the Respondent’s part.

The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

In order to prevail on the third element of the Policy, the Complainant must meet the conjunctive requirement of demonstrating that the disputed domain name was both registered, and has been used, in bad faith. In order to show that the disputed domain name was registered in bad faith, the Complainant must demonstrate that the Respondent was, or was more likely than not to have been, actually aware of the Complainant’s trademark. It is insufficient for this purpose (save in a limited category of cases which has no application to this proceeding) to seek to rely on “constructive” notice, i.e. the fact alone of the trademark having been registered.

In this case, the Complainant asserts that its PUFFER trademark has achieved substantial recognition and goodwill as a result of its longstanding use in commerce. However, the Complainant does not produce any further information or evidence in support of its submissions, for example, the size and geographical scope of its business, numbers and locations of employees, annual sales figures, industry and media recognition, or other factors to demonstrate why the Respondent was likely to have been aware of the Complainant’s trademark. Thus, the Complainant has failed to provide any of the evidence typically tendered by parties in support of such assertions, which would enable the Panel to determine whether or not the Respondent was likely to have known of the Complainant’s trademark.

While this omission on the part of the Complainant risked proving prejudicial to its case, the Panel notes that, as observed in section 4.2 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)):

“While conclusory statements unsupported by evidence will normally be insufficient to prove a party’s case, panels have been prepared to draw certain inferences in light of the particular facts and circumstances of the case e.g., where a particular conclusion is prima facie obvious, where an explanation by the respondent is called for but is not forthcoming, or where no other plausible conclusion is apparent.”

In these circumstances, and taking into account the Respondent’s failure to reply to the Complainant’s submissions, its non-use of the disputed domain name, and the nature of the disputed domain name itself, which is clearly suggestive of “typosquatting”, the Panel is prepared to infer that the Respondent was, indeed, more likely than not to have been aware of the Complainant’s trademark rights and registered the disputed domain name in order to take unfair advantage of the goodwill attaching to that trademark.

Concerning the Respondent’s use of the disputed domain name, while the disputed domain name does not appear to have been actively used, this does not prevent a finding of use of the disputed domain name in bad faith where all the other circumstances of the case point to that conclusion: see, e.g. *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). In this instance the Panel finds that the overall circumstances of the case point to the use of the disputed domain name in bad faith.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

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 <pufferf.com> be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: February 4, 2025