

ADMINISTRATIVE PANEL DECISION

Open Text Corporation v. Chris Hess
Case No. D2025-0933

1. The Parties

The Complainant is Open Text Corporation, Canada, represented by SafeNames Ltd., United Kingdom.

The Respondent is Chris Hess, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <opentext.com> is registered with Hostinger Operations, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 6, 2025. On March 7, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 10, 2025, 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 ("Domain Admin, Privacy Protect, LLC") and contact information in the Complaint. The Center sent an email communication to the Complainant on March 12, 2025, 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 March 18, 2025.

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 March 18, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 7, 2025. The Respondent did not submit any Response. Accordingly, the Center notified the Respondent's default on April 15, 2025.

The Center appointed Jeremy Speres as the sole panelist in this matter on April 17, 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 has, since its founding in 1991, traded under its OPENTEXT mark as a software company focusing on information management and unstructured data. The Complainant has 120,000 enterprise customers across 180 countries, 31 million public cloud users, and over 23,000 employees, and, in the fiscal year 2024, the Complainant delivered USD 5.8 billion in revenues.

The Complainant's official website is accessible via its domain name <opentext.com>, which it registered on October 26, 1994.

The OPENTEXT mark held by the Complainant's wholly-owned subsidiary is registered in numerous jurisdictions, including in the Respondent's jurisdiction of the United States under Trademark Registration No. 2685043 OPENTEXT in class 9, having a registration date of February 11, 2003.

The disputed domain name was registered on January 10, 2025, and currently resolves to a Registrar parking page.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name. Notably, the Complainant contends that the disputed domain name was registered in bad faith in order to take advantage of confusion with the Complainant's mark, and has been used in bad faith under the doctrine of passive holding accordingly.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. A domain name which consists of a common, obvious, or intentional misspelling of a trademark, as in this case, is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. Here, the repetition of the letter "n" in the Complainant's mark within the disputed domain name does not render the Complainant's mark unrecognizable. [WIPO Overview 3.0](#), section 1.9.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The disputed domain name was registered many years after the Complainant first adopted its mark, and many years after that mark became well known. The disputed domain name is nearly identical to the Complainant’s mark, apart from the repetition of the letter “n”, which, as discussed below, points to typosquatting. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Complainant’s evidence establishes that its OPENTEXT mark was well known long prior to registration of the disputed domain name. UDRP panels have consistently found that registration of a domain name that is confusingly similar (particularly domain names comprising typos, as in this case) to a famous or well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Internet searches for the Complainant’s mark as well as for the second-level portion of the disputed domain name return results overwhelmingly relating to the Complainant, and the disputed domain name is almost identical to the Complainant’s well-known mark.

The Complainant presented historical Whois data showing that the Respondent has registered other domain names that are confusingly similar to well-known trademarks. These include <vialcareers.us> (containing the VIAL mark) and <ychgroup.us> (containing the YCH mark). The Panel has, in accordance with its powers of independent research articulated inter alia in paragraphs 10 and 12 of the Rules, found two other domain names in this vein registered using the same phone number and email address as the Respondent’s, specifically <sekaii.us> (containing the SEKAI mark), and <stihll.us> (containing the STIHL mark). The latter two are noteworthy given that they too include misspellings of well-known marks in the form of repeated letters, as in the present case. This points to a pattern of conduct on the Respondent’s behalf.

Although the Complainant's mark is comprised of two commonplace words, "open" and "text", the seemingly random inclusion of the letter "n" between them in the composition of the disputed domain name points away from generic/descriptive use of these terms by the Respondent, especially given the absence of any explanation from the Respondent.

The fact that the disputed domain name does not currently resolve to any active website does not prevent a finding of bad faith under the doctrine of passive holding; all the factors that panels typically consider under that doctrine tend to favour the Complainant. [WIPO Overview 3.0](#), section 3.3.

The Panel draws an adverse inference from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for. [WIPO Overview 3.0](#), section 4.3.

The Panel finds that the Complainant has established the third element 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 <openntext.com> be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: April 22, 2025