

ADMINISTRATIVE PANEL DECISION

Champion Petfoods USA Inc. v. Marie Hueber
Case No. D2025-1077

1. The Parties

The Complainant is Champion Petfoods USA Inc., Canada, represented by 101domain.com, United States of America (“United States”).

The Respondent is Marie Hueber, Germany.

2. The Domain Name and Registrar

The disputed domain name <acanachile.com> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 15, 2025. On March 17, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 18, 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 (Information not available on WHOIS) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 19, 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 20, 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 25, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 14, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 15, 2025.

The Center appointed Christian Gassauer-Fleissner as the sole panelist in this matter on April 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 Canadian pet food manufacturer distributing premium pet food products. The Complainant was founded in 1985 and has been operating in the pet food industry for over a decade. The Complainant's company serves pets in more than 90 countries worldwide.

The Complainant is the owner of several trademarks for ACANA ("ACANA trademark"), including:

- Canada Trademark Registration No. TMA453690, registered on February 9, 1996;
- United States Trademark Registration No. 3849662, registered on September 21, 2010; and
- Chile Trademark Registration No. 1190502, registered on January 12, 2016.

The Complainant is also the owner of several domain names including the ACANA trademark, such as the domain name <acana.com>, registered on January 24, 2003.

The disputed domain name was registered on November 20, 2024. The Complainant has provided evidence showing that the disputed domain name resolved to an active website which prominently displayed the ACANA trademark as well as product images and content from the website accessible under the domain name <acana.com> ("Complainant's website"), including pet food products offered at heavily discounted prices. At the time of the Decision, the disputed domain name resolves to an error webpage.

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.

On the first element of the Policy, the Complainant claims that the disputed domain name is identical or confusingly similar to the ACANA trademark. The Respondent is actively seeking to create confusion in the online marketplace by adding "chile", a country where the Complainant operates and distributes products, to the Complainant's primary domain <acana.com>. The Respondent is clearly attempting to validate the disputed domain name for fraudulent means and cause confusion. This typosquatting method is not only used to capitalize on the Complainant's notorious brand recognition but also demonstrates the Respondent's intention to confuse consumers and target the Complainant's customers looking for the Complainant's domain name. The Complainant has been utilizing the ACANA trademark consistently and consecutively for nearly two decades and has created a global name in the pet food industry. The vast majority of the Complainant's premium pet food products prominently display the ACANA trademark, resulting in instant brand recognition and visibility. Therefore, the disputed domain name is confusingly similar to the Complainant's trademark as it uses the entirety of the Complainant's trademark and directs consumers to an authorized website comprised of the Complainant's identical pet food products and images that are otherwise protected by the ACANA 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. The Complainant was made aware of the Respondent's nearly identical domain name registration due to their proactive monitoring of brand infringement. The Complainant flagged the disputed domain name as the live site was clearly impersonating

the Complainant's company with its use of the ACANA trademark and the Complainant's product images to sell unlicensed ACANA pet food. The Complainant's representative promptly filed an abuse complaint with the disputed domain name's providers on February 7, 2025, and the disputed domain name was subsequently suspended on February 11, 2025. In an effort to prevent further abuse of the disputed domain name, the Complainant sought this dispute and the rightful transfer of the disputed domain name. It is the Complainant's belief in good faith that the Respondent has no registered trademarks using the term "Acana" and traded on the goodwill the Complainant has established under the ACANA brand for wrongful profit. The Respondent does not appear to have any legitimate connection to the "Acana" term, and the disputed domain name was solely being used to deceive the Complainant's customer base and prevent online consumers from navigating to Complainant's true ACANA pet food products and services. The Respondent is not commonly known by the disputed domain name and registered it primarily for the purpose of disrupting the Complainant's business. The Respondent is not making a legitimate non-commercial or fair use of the disputed domain name because it intentionally consists of the Complainant's entire trademarked term ACANA and was selling the Complainant's ACANA products without authorization. The ACANA trademark has become well-known to characterize the Complainant's brand, as evidenced by the multitude of registered "Acana" domain names and its global presence. By the Respondent intentionally diverting potential customers away from a domain name that substantially incorporates the ACANA trademark to potentially navigate to the Respondent's infringing space, the Respondent is using the disputed domain name to actively disrupt the Complainant's business and tarnish the Complainant's established ACANA trademark. The Respondent has not provided any evidence of bona fide use of, or demonstrable preparations to use, the disputed domain name in connection with any legitimate offering of goods or services, as the domain is solely being used to confuse current prospective customers. The Complainant has invested an extensive amount of time, money, and energy in using their trademarks to establish a dominant online reputation, whereas the Respondent is merely squatting on the disputed domain name for fraudulent purposes. The Complainant has not licensed nor allowed the Respondent to use the ACANA trademark for any purpose, the Complainant is unaware of any registered trademarks using the term "Acana" owned by the Respondent, and the disputed domain name was registered primarily for the purpose of disrupting and tarnishing the business of the Complainant's company. Thus, the Respondent is demonstrating a complete lack of legitimate interests or rights in the disputed domain name.

On the third element of the Policy, the Complainant asserts that the Respondent has registered and used the disputed domain name in bad faith. The Respondent fraudulently used the disputed domain name to confuse customers who associate the ACANA brand with an unaffiliated website displaying unauthorized copyrighted images of the Complainant's logo and pet food products. The Respondent's registration of the disputed domain name prevents the Complainant from reflecting their ACANA trademark in the corresponding domain name. Since the recent registration of the disputed domain name four months ago, the Respondent has not used or prepared to use it for any legitimate purpose and is only using the disputed domain name primarily for the purpose of disrupting the Complainant's business. The Respondent misled current and prospective customers who navigate to the disputed domain name into thinking that the unauthorized site was associated with the Complainant's company for wrongful profit. Therefore, the Respondent's inappropriate registration of the disputed domain name constitutes fraudulent activity, with the sole intention to direct online consumers to their infringing site and prevent access to the Complainant's authentic ACANA products and services. This has led the Complainant to believe the disputed domain name was registered and is being used in bad faith. The Respondent is willfully using an identical and confusingly similar term to prevent the Complainant from utilizing the ACANA trademark to reach customers that would otherwise search the corresponding domain name, as it has become notorious to represent the Complainant's company since 1985. The ACANA trademark was registered over two decades prior to the registration of the disputed domain name, and it is reasonable to presume the Respondent knew about the Complainant's rights to the disputed domain name due to the Respondent's conscious use of the Complainant's protected images and logo. As such, the disputed domain name is deliberately being used to create confusion with the ACANA trademark and is preventing the Complainant from reflecting their trademark in the disputed domain name. The disputed domain name misleads the Complainant's customers into believing the Respondent's website is associated with the ACANA trademark and is disrupting the Complainant's business by wrongfully profiting from the Complainant's online reputation. The Respondent's registration and misuse of the disputed domain name intentionally deceive customers with the Complainant's

confusingly similar trademarked term ACANA. Given the Respondent's lack of legitimate purpose, it is clear that Respondent registered and is using the domain in bad faith.

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 the 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

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 3.0](#), section 1.7.

While each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. [WIPO Overview 3.0](#), section 1.7.

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. [WIPO Overview 3.0](#), section 1.8.

The applicable Top-Level Domain ("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. [WIPO Overview 3.0](#), section 1.11.

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 entirety of the ACANA trademark is reproduced within the disputed domain name and the Panel finds the mark is recognizable within the disputed domain name. The disputed domain name differs from the ACANA trademark by the addition of the term "chile".

Although the addition of the term “chile” may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Complainant has not authorized, licensed, or permitted the Respondent to register or use the disputed domain name or to use the ACANA trademark. Further, the Respondent has not attempted to justify why the disputed domain name was registered. The Panel finds on the record that there are no indications that the Respondent is commonly known by the disputed domain name or otherwise has any rights to or legitimate interests in the disputed domain name. Further, there are no evident preparations for the use of the disputed domain name for a bona fide offering of goods or services. Rather, the Complainant has shown evidence that the disputed domain name resolved to an active website which prominently displayed the ACANA trademark as well as product images and content from the Complainant’s website, including pet food products offered at heavily discounted prices.

Having reviewed the record, the Panel finds that the Respondent registered the disputed domain name and used it to impersonate the Complainant, and it is likely that the Respondent was selling counterfeit goods.

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 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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Further, Panels have held that the use of a domain name for illegal activity constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

The Panel notes that the ACANA trademark was registered before the disputed domain name. Considering the public presence of the Complainant, it is unlikely that the Respondent had no knowledge of the ACANA trademark. The incorporation of the ACANA trademark within the disputed domain name, with the only addition of the term "chile" – as a reference for business activity in Chile – and the fact that the disputed domain name resolved to a website prominently displaying the ACANA trademark as well as product images and content from the Complainant's website, including pet food products offered at heavily discounted prices, demonstrates the Respondent's actual awareness of and intent to target the Complainant. In light of the lack of any rights to or legitimate interests in the disputed domain name by 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 Internet users to its website by creating a likelihood of confusion with the ACANA trademark.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <acanachile.com> be transferred to the Complainant.

/Christian Gassauer-Fleissner/
Christian Gassauer-Fleissner
Sole Panelist
Date: May 6, 2025