

ADMINISTRATIVE PANEL DECISION

Kemco Scientific, Inc. v. Colin OverviewChalmers
Case No. D2025-1980

1. The Parties

Complainant is Kemco Scientific, Inc., United States of America (“United States”), represented internally.

Respondent is Colin Chalmers, United States.

2. The Domain Name and Registrar

The disputed domain name <irispond.com> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 16, 2025. On May 19, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 20, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email to Complainant on May 20, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on May 22, 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 Respondent of the Complaint, and the proceedings commenced on May 26, 2025. In accordance with the Rules, paragraph 5, the due date for Response was June 15, 2025. The Response was filed with the Center on May 23, 2025.

The Center appointed Robert A. Badgley as the sole panelist in this matter on June 11, 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

Complainant has registered the word mark IRISPOND with the United States Patent and Trademark Office, Reg. No. 4,833,343, registered on October 13, 2015, in connection with, among other things, “chemicals for use in the purification of water” and chemicals for use in connection with water desalination, water treatment, and water reclamation, chemicals for use in soil remediation, drinking water treatment, and so forth, with a February 3, 2015 date of first use in commerce.

Apart from the information reflected in the foregoing trademark registration, the Complaint yields no information about Complainant or its business. Nor does the Complaint provide any information about the scope of Complainant’s operations, the firm’s geographical reach in terms of customers and marketing efforts, the extent to which the registered trademark IRISPOND enjoys renown, evidence of actual consumer confusion, and so forth.

According to the Whois record, the Domain Name was registered on October 23, 2020. The Domain Name currently redirects to a website at the domain name <colinchalmers.com>, a site operated by Respondent and corresponding to Respondent’s name. At this website, there is no express reference to IRISPOND, or to anything related to Complainant or its products. Rather, the website at the domain name <colinchalmers.com> contains references to “Songwriting”, “Worship Leading”, and “Film/TV Music Production”. It also contains hyperlinks for “Home”, “Demos”, “Albums/Books”, “Songsheets” and “Bio”.

According to Respondent, he had first registered the Domain Name nearly 20 years earlier but let it lapse and then re-registered it on October 23, 2020. Respondent states:

“I have used the name Iris Pond since 1997 with a band of that name. This is documented on the CD liner notes of the album Heaven's Eyes by Colin Chalmers (published 2000). After this, in 2000, it was registered as a DBA for Colin Chalmers as Iris Pond Productions and has been used since that time to publish music and books.”

Annexed to the Response is an April 4, 2001, screenshot from the Wayback Machine (“www.archive.org”), which appears to corroborate Respondent’s claim that he owned and used the Domain Name back in 2001 in connection with a venture known as “Iris Pond Productions”. The website page on this screenshot contains apparent hyperlinks for “Contact” and “Bookings”.

Respondent states further:

“[The Domain Name] IrisPond.com forwards to ColinChalmers.com while the site is being updated. ColinChalmers.com contains music and a book for sale that shows on Amazon as published by Iris Pond Productions in 2012. It is still in print. Iris Pond Productions is also a publishing business registered with the American Society of Composers Authors and Publishers (ASCAP) since 2012. Since the domain has been in use for products in the past, is still linked to a website with those products, and the website (ColinChalmers.com) is the name of the person who registered a DBA in California for Iris Pond Productions, I would say it is fair use.”

Annexed to the Response is a September 24, 2002, purchase receipt from Catalog.com, addressed to “Colin Chalmers, Iris Pond Productions.”

According to Complainant, it used a domain name broker to make an offer of USD 400 to Respondent on May 13, 2025, to purchase the Domain Name. Respondent replied: “Thanks for offer! Planning to use name

this soon but maybe still open.” On May 15, 2025, Respondent offered to sell the Domain Name to Complainant for USD 30,000. The Complaint in this proceeding was filed the next day, on May 16, 2025.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

B. Respondent

Respondent’s essential position, reflected in the quotations above in the “Factual Background” section, is that he registered the Domain Name legitimately in connection with his occasional forays into music and publishing, and not in order to target Complainant or its trademark.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

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

A. Identical or Confusingly Similar

The Panel finds that Complainant has rights in the mark IRISPOND through registration demonstrated in the record. The Panel also finds that the Domain Name is identical to that mark.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel need not decide this issue, given its conclusion below in connection with the “Bad Faith” element.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in bad faith:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that 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 Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes, on the record provided here, that Complainant has failed to prove bad faith registration and use under the Policy. There is little or no basis for the Panel to find it more likely than not that Respondent was aware of Complainant's IRISPOND mark when he registered the Domain Name. To be clear, the date of registration of the Domain Name for purposes of this proceeding is October 23, 2020, even if Respondent had owned the Domain Name many years earlier and had let it lapse for a while. In any event, there is some evidence in the record that Respondent (or someone associated with Respondent) owned the Domain Name many years earlier (and prior to Complainant's February 3, 2015 date of first use of its IRISPOND mark in commerce), and that evidence (plus other annexes to the Response) suggests that Respondent had adopted "Iris Pond" in connection with his business or hobbyist activities in the areas of music and publishing. As such, it would appear that Respondent's self-association with "Iris Pond" (or "Iris Pond Productions") goes back well before Complainant used and registered its trademark, even if the record evidence of Respondent's use of that term is fairly thin and appears to betray lengthy periods of non-use of the term.

Even if the Panel were to totally disregard Respondent's annexes apparently corroborating Respondent's pre-2015 association with the term "Iris Pond", the Complaint would fail on the record presented. As noted above, Complainant provided no evidence about the extent to which its registered trademark is known by consumers. Complainant's apparent field of industry – which is reflected in the trademark registration itself – is fairly arcane and does not appear to be decidedly consumer-facing. As such, the Panel would have expected a more robust presentation of the renown of Complainant's mark, such that the Panel could find it more likely than not that Respondent was aware of the mark in October 2020 when he registered (or re-registered after a period of lapse) the Domain Name. But no such showing was attempted.

Because the Panel cannot make a finding of bad faith registration here, the Complaint must fail, and the Panel need not address the USD 30,000 sale offer made by Respondent one day before the Complaint in this case was filed.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Robert A. Badgley/
Robert A. Badgley
Sole Panelist
Date: June 20, 2025