

ADMINISTRATIVE PANEL DECISION

Championx USA Inc. v. Chad Badziong
Case No. D2022-3626

1. The Parties

The Complainant is Championx USA Inc., United States of America, represented by TechLaw Ventures, PLLC, United States of America.

The Respondent is Chad Badziong, United States of America.

2. The Domain Name and Registrar

The disputed domain name <championx.com> is registered with Wild West Domains, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 29, 2022. On September 30, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 4, 2022, 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 (Registration Private, Domains By Proxy, LLC, DomainsByProxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 4, 2022 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 October 4, 2022.

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 October 5, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 25, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 27, 2022.

The Center appointed Anne Gundelfinger as the sole panelist in this matter on November 2, 2022. 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

ChampionX Corporation is a publicly-traded company and global leader in chemistry programs and services, artificial lift solutions, automation and optimization equipment, and drilling technologies for the oil and gas industry. ChampionX Corporation operates in over 60 countries, with over 30 manufacturing locations and over 7000 employees around the world. Its annual revenues exceed USD 3 billion. ChampionX Corporation operates through a number of subsidiaries, including the Complainant, ChampionX USA, Inc., which is the owner of the trademark CHAMPIONX (“Complainant’s Mark” or “Mark”).

The Complainant apparently changed its name from Apergy to ChampionX as part of a merger in June 2020, and adopted the CHAMPIONX Mark at that time or sometime thereafter. While it is not clear from the evidence exactly when the CHAMPIONX Mark was first used by the Complainant, the evidence establishes that the Mark is currently in use as the Complainant’s house mark and as the Complainant’s primary corporate domain name <championx.com>.

The Complainant owns trademark registrations and pending applications for the Mark in a number of major markets around the world, including the following:

- International Registration No. 1547390 in International Classes 1, 7, 37, 40, and 42 (filed December 11, 2019);
- International Registration No. 1650226 in International Classes 1, 4, 7, 9, 35, 37, 40, and 42 (filed May 26, 2021);
- German Registration No. 302019017114 in International Classes 1, 7, 37, 40, and 42 (filed July 23, 2019; registered September 27, 2019);
- Singapore Registration No. 40202017953U in International Classes 1, 7, 37, 40, and 42 (filed December 11, 2019; registered August 19, 2021);
- Philippines Registration No. 1547390 in International Classes 1, 7, 37, 40, and 42 (filed December 11, 2019; registered November 27, 2020); and
- Brazil Registration No. 918302153 in International Class 40 (filed September 25, 2019; registered August 10, 2021).

The disputed domain name was registered on August 26, 2022, and does not currently resolve to any website, instead generating only an error message.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its established CHAMPIONX Mark because the disputed domain name is identical to the Mark, with the exception that the disputed domain name inserts an “r” before the “m”. The Complainant argues that this is just a “misspelling” and this small difference does not prevent a finding of confusing similarity.

The Complainant further contends, and has presented supporting evidence, that the Respondent has used the disputed domain name in connection with a business email compromise scheme apparently intended to fraudulently divert payments intended for the Complainant. Specifically, the Complainant contends that the Respondent used the disputed domain name as part of a deceptive email address in the format “[...]@championx.com” to send an email appearing to be from the Complainant’s credit department to at least one of the Complainant’s customers informing that customer of a change to “remittance address and banking information” for submission of payments to the Complainant.

Based on the foregoing, the Complainant argues that the Respondent has no rights or legitimate interests in the disputed domain name, and that the disputed domain name was registered and is being used in bad faith. Specifically, the Complainant asserts *inter alia* that (a) the Complainant has given no authorization or license for use of the disputed domain name, (b) the Respondent is not commonly known by the disputed domain name, (c) the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, and (d) the Respondent’s use of the disputed domain name for the above-described deceptive email scheme both fails to establish rights or legitimate interests, and also demonstrates the Respondent’s bad faith registration and use.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy requires that the Complainant prove the following three elements to be successful in this action: (i) the disputed domain name is identical or confusingly similar to trademarks or service marks 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

While the date of first use of the Complainant’s mark is not clear from the evidence submitted, it is nevertheless clear that the Mark is currently in use and that the Complainant has established rights in the Mark as a result of various registrations covering many major markets around the world. These registrations predate the Respondent’s registration of the disputed domain name by at least 2-3 years.

The disputed domain name is identical to the Complainant’s distinctive and established CHAMPIONX Mark, with the exception that the disputed domain name adds an “r” before the “m”. Such a minor alteration is insignificant and does not prevent a finding of confusing similarity between the disputed domain name and the CHAMPIONX Mark, especially given that the “r” visually merges into the “m” at first glance. Panels have consistently found slightly misspelled domain names to be confusingly similar to the mark in question for purposes of the first element under the Policy. See, section 1.9 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) and cases cited therein. Moreover, here there is evidence (discussed below) that the Respondent targeted the Complainant’s Mark, which affirms a finding of confusing similarity between the disputed domain name and the Complainant’s Mark.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s Mark under the requirements of the Policy, and that the first element of the Policy is satisfied.

B. Rights or Legitimate Interests

It is well established that a complainant must present a *prima facie* case in relation to the second element of the Policy, not mere allegations. Once a *prima facie* showing is made, the burden of production shifts to the respondent to come forward with evidence of rights or legitimate interests in the disputed domain name.

This burden-shifting is appropriate given that the respondent is often the only party with access to evidence of its own rights or legitimate interests. Accordingly, where a respondent fails to file a response, a UDRP panel may draw inferences from the failure to respond as appropriate under the circumstances of the case and while still weighing all available evidence irrespective of whether a response is filed. See, section 2.1 of the [WIPO Overview 3.0](#) and cases cited therein. See also, *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

Here, the Complainant has demonstrated its rights in the CHAMPIONX Mark, and has asserted that the Respondent is not commonly known by the disputed domain name nor is it making a legitimate fair use of the name, and that the Complainant has no relationship with the Respondent and has not licensed or otherwise permitted the Respondent's use of the disputed domain name. The Complainant has further demonstrated with credible un rebutted evidence that the Respondent used the disputed domain name to send at least one deceptive and potentially fraudulent email for commercial gain. Of course, such use does not give rise to any rights or legitimate interests on the part of the Respondent. See section 2.13 of the [WIPO Overview 3.0](#).

In the absence of a response from the Respondent, the Panel accepts the Complainant's evidence and assertions, and finds that the Complainant has made a *prima facie* case that the Respondent lacks any rights or legitimate interests in the disputed domain name. Accordingly, the Panel concludes that the Complainant has met its burden and that the second element of the test is satisfied.

C. Registered and Used in Bad Faith

The third element of the test requires a showing that the disputed domain name has been registered and is being used in bad faith. As previously concluded, the disputed domain name is confusingly similar to the Complainant's established CHAMPIONX Mark. Given the foregoing, and the fact that the Respondent used the disputed domain name to send a deceptive and potentially fraudulent email impersonating an employee of the Complainant, one can only fairly conclude that the Respondent was clearly aware of – and targeted – the Complainant's Mark when registering the disputed domain name. This suffices to establish bad faith registration. See, paragraph 4(b)(iv) of the Policy, and section 3.1.4 of the [WIPO Overview 3.0](#).

Turning to bad faith use, while the disputed domain name resolves only to an inactive website, the Respondent sent at least one deceptive and potentially fraudulent email purporting to be from the Complainant's credit department using the disputed domain name as part of a deceptive email address, all in an apparent effort to divert to the Respondent payments being made by the Complainant's customer. Such use of the disputed domain name clearly constitutes use in bad faith. See *Facebook, Inc. v. WhoisGuard, Inc. / Donna E. Fleming, Mansmann's Department Store*, WIPO Case No. [D2019-1777](#); and section 3.4 of the [WIPO Overview 3.0](#).

Accordingly, the Panel concludes that the disputed domain name was registered and has been used in bad faith, and that the third element of the test is satisfied.

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, <championx.com> be transferred to the Complainant.

/Anne Gundelfinger/

Anne Gundelfinger

Sole Panelist

Date: November 16, 2022