



CANADIAN INTERNATIONAL INTERNET DISPUTE RESOLUTION CENTRE

DOMAIN NAME DISPUTE

ADMINISTRATIVE PANEL

DECISION

CIIDRC case number:	27501-CDRP	Decision date: August 24, 2026
Disputed Domain Name:	<chomps.ca>	
Panel:	Carol Roberts, Douglas M. Isenberg, Zak Muscovitch (Chair),	
Complainant:	We Are The Chompians LLC	
Registrant:	Anne Marie Gonsalves	

1. PROCEDURAL HISTORY

This proceeding arises under the Canadian Internet Registration Authority (“CIRA”) Domain Name Dispute Resolution Policy (the “Policy”) and concerns the domain name <chomps.ca> (the “Domain Name”).

The procedural history of this case was set out in a letter from the Canadian International Internet Dispute Resolution Centre (“CIIDRC”) to the Panel dated August 17, 2026, and in CIIDRC’s Notification of Commencement of Proceedings dated July 28, 2026:

(a) On July 20, 2026, Aaron Bowling of Arnold Porter Kaye Scholer LLP filed a Complaint with CIIDRC on behalf of the Complainant, We Are The Chompians LLC, pursuant to the Policy and the Domain Name Dispute Resolution Rules (the “Rules” or the “Resolution Rules”). The Complaint was in administrative compliance with CIRA’s requirements under Rule 3.2. The required commencement fee was paid on July 24, 2026.

(b) On July 24, 2026, CIRA was notified of this proceeding and, on the same day, transmitted by email to CIIDRC its verification response confirming that the Registrant of the Domain Name is Anne Marie Gonsalves. CIRA also confirmed that the Domain Name was placed on Registrar Lock. According to CIRA’s verification response, the Domain Name was registered on June 2, 2021 (the “Registration Date”).

(c) Pursuant to Rule 4.4, CIIDRC notified the Registrant of this administrative proceeding and forwarded a Notice of Complaint along with the Complaint to the Registrant on July 28, 2026,

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which is the date of commencement of the proceeding. The deadline for submitting a Response was August 17, 2026.

(d) On August 6, 2026 the Registrant filed a Response to the Complaint.

(e) The Complainant deposited the required Panel fee on August 11, 2026.

(f) In accordance with Paragraph 6 of the Rules, CIIDRC appointed a three-member Panel consisting of Douglas M. Isenberg and Carol Roberts as Panelists and Zak Muscovitch as Chair of the Panel. Each member of the Panel has submitted a Statement of Acceptance and Declaration of Impartiality and Independence in accordance with Paragraph 7 of the Rules.

CIRA's verification response disclosed that the Registrant's identity was subject to WHOIS privacy and was not published in the public WHOIS database. Pursuant to Rule 11.1, the Complainant accordingly had the right to make a further submission, including adducing further evidence, with respect only to the issue of the Registrant's legitimate interest in the Domain Name. The Complainant filed a Further Submission pursuant to Rule 11.1, dated August 17, 2026, and the Registrant filed a Further Response in reply, also dated August 17, 2026. The Panel has admitted and considered both of these supplementary filings. As discussed below, they are directed to the Registrant's legitimate interest and do not bear upon the issue on which this proceeding is ultimately determined.

The Panel reviewed the record and finds that it was properly constituted and has jurisdiction to decide this dispute.

2. FACTS

The Complainant, We Are The Chompies LLC, is a limited liability company with an address in Chicago, Illinois, United States. According to the Complaint, the Complainant is a food company that develops, markets, and sells high-protein meat snacks under the brand CHOMPS, launched in the United States in 2012, and distributes its products through its direct-to-consumer website and major retail chains across the United States and Canada.

The Complainant is the owner of Canadian trademark registration No. TMA1181490 for CHOMPS (the "CHOMPS Mark"), in association with "meat-based snack foods; dried meat; prepared meat". The application for the CHOMPS Mark was filed with the Canadian Intellectual Property Office ("CIPO") on January 19, 2021 and the registration issued on May 24, 2023. A copy of the registration certificate was filed as Annex 2 to the Complaint. The registration does not set out any date of first use in Canada.

The Complaint does not state when, if at all before the Registration Date, the Complainant began using the CHOMPS Mark in Canada, and no evidence of any such use was filed. The Registrant asserts in her Response that the Complainant's products were not available in Canada when she acquired the Domain Name and that the Complainant launched in Canada on August 5, 2021, citing a news release to that effect.

According to CIRA's verification response, the Registrant is Anne Marie Gonsalves, an individual of Brampton, Ontario, who registered the Domain Name under the Canadian Presence Requirements category of Canadian citizen. The Registrant states that she acquired the Domain Name on June 2, 2021 through CIRA's "to be released" (TBR) auction of expired domain names.

The parties disagree about the circumstances in which the Domain Name was acquired and held, and about the role of a third party, 401 Media Group ("401 Media"), to whose website the Domain Name was pointed for a number of years and to whom the Complainant's pre-Complaint demand letter was addressed. For the reasons given below, the Panel does not need to resolve those matters and makes no findings concerning them.

3. CONTENTIONS OF THE PARTIES

Complainant

The Complainant submits that the Domain Name is identical to the CHOMPS Mark and that it has Rights in the CHOMPS Mark which predate the Registration Date. On the latter point, the Complaint relies upon the filing of the Complainant's Canadian trademark application on January 19, 2021, and submits that "Chomps' trademark rights predate 401 Media's registration of the Disputed Domain Name by more than four months". The Complaint does not rely upon any use of the CHOMPS Mark in Canada prior to the Registration Date.

The Complainant further submits that the Registrant has no legitimate interest in the Domain Name and registered it in bad faith within the meaning of Paragraph 3.5(b) of the Policy. It relies upon the passive holding of the Domain Name for more than five years, the content of the landing page created after its demand letter, the Registrant's ownership of other food-related domain names, and the explanations given by 401 Media as to the ownership of the Domain Name, together with prior decisions under the Policy and the decision in *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003, under the Uniform Domain Name Dispute Resolution Policy (the "UDRP"). Its Further

Submission under Rule 11.1 is confined to the issue of legitimate interest and submits that the Registrant has offered no documentary evidence of the venture for which she says the Domain Name was acquired and that her account of 401 Media's role is inconsistent with the record.

Registrant

The Registrant submits that she acquired the Domain Name at a CIRA TBR auction on June 2, 2021, two years before the CHOMPS Mark was registered, at a time when she had never heard of the Complainant and when, she says, the Complainant's products were not sold in Canada. She states that she selected the Domain Name as a one-word dictionary term suited to a planned meal-planning and food-delivery project.

The Registrant submits that she has a legitimate interest in the Domain Name as a generic dictionary word which she intends to use for a business unrelated to the Complainant, that the registration of such a domain name is not, without more, bad faith, and that the Complaint's allegations of bad faith and lack of legitimate interest are directed at 401 Media, which she says has never owned the Domain Name or represented her. Her Further Response reiterates those points. The Registrant refers the Panel to prior decisions under the Policy concerning dictionary-word domain names and to a decision under the UDRP.

Remedy Sought

The Complainant requests that the Domain Name be transferred to it. The Registrant requests that the Complaint be dismissed.

4. DISCUSSION AND FINDINGS

4.1 Eligibility

Paragraph 1.4 of the Policy requires that a complainant satisfy the Canadian Presence Requirements for Registrants at the time of submitting a complaint, unless the complaint relates to a trademark registered in CIPO and the complainant is the owner of that registered trademark. The Complaint relates to the CHOMPS Mark, which is registered in CIPO, and the Complainant is the owner of that registration. The Panel is accordingly satisfied that the Complainant is an eligible complainant under Paragraph 1.4 of the Policy.

4.2 Requirements

In accordance with Paragraph 4.1 of the Policy, the onus is on the Complainant to prove, on a balance of probabilities, that:

(a) the Domain Name is Confusingly Similar to a Mark in which the Complainant had Rights prior to the date of registration of the Domain Name and continues to have such Rights; and

(b) the Registrant has registered the Domain Name in bad faith as described in Paragraph 3.5;

and the Complainant must provide some evidence that:

(c) the Registrant has no legitimate interest in the Domain Name as described in Paragraph 3.4.

The Panel will consider the first requirement, which the Panel finds to be dispositive of this proceeding.

4.3 Analysis

4.3.1 Whether the Domain Name is Confusingly Similar to a Mark in which the Complainant had Rights prior to the Registration Date

The first requirement of the Policy has two components. The Domain Name must be Confusingly Similar to a Mark, and the Complainant must have had Rights in that Mark prior to the date of registration of the Domain Name and must continue to have such Rights. Paragraph 3.1(a) of the Policy provides that the Policy applies where:

“the Registrant’s dot-ca domain name is Confusingly Similar to a Mark in which the Complainant had Rights prior to the date of registration of the domain name and continues to have such Rights”.

There is no difficulty with the first component. Disregarding the dot-ca suffix, as Paragraph 1.2 of the Policy requires, the Domain Name is identical to the CHOMPS Mark. The difficulty lies with the second component.

The relevant dates are not in dispute. The Complainant’s application to register the CHOMPS Mark was filed on January 19, 2021. The Domain Name was registered on June 2, 2021. The registration for the CHOMPS Mark issued on May 24, 2023, nearly two years after the Registration Date. The question

is therefore whether, as of June 2, 2021, the Complainant had Rights in a Mark within the meaning of the Policy.

Paragraph 3.2 of the Policy defines a “Mark” exhaustively. For present purposes, the relevant limbs of that definition are the following:

“(a) a trade-mark, including the word elements of a design mark, or a trade name that has been used in Canada by a person, or the person’s predecessor in title, for the purpose of distinguishing the wares, services or business of that person or predecessor or a licensor of that person or predecessor from the wares, services or business of another person; ... [or]

(c) a trade-mark, including the word elements of a design mark, that is registered in CIPO”.

A pending application is not among the things that Paragraph 3.2 recognizes as a Mark. As of June 2, 2021, CHOMPS was not a trademark registered in CIPO; it became one on May 24, 2023. And there is no evidence before the Panel that, as of June 2, 2021, CHOMPS was a trademark that had been used in Canada by the Complainant for the purpose of distinguishing its wares from those of others. The Complaint does not allege any such use, and no evidence of it was filed.

The Complainant instead rests its claim to prior Rights entirely upon the filing date of its application. With respect, that reliance is misplaced. Under [section 19](#) of the *Trademarks Act*, the exclusive right to the use of a registered trademark throughout Canada arises upon registration. The filing date of an application, including a filing date deemed under [section 34](#) for priority purposes, does not itself confer that right. [Section 16](#) governs entitlement to registration as against prior users, prior applicants and prior users of trade names, while section 34 governs priority based on an earlier application in another country of the Union. Neither provision deems a trademark to have been used in Canada, or to have distinguished anyone’s goods, on the application or priority date.

Moreover, since the amendments to the *Trademarks Act* which came into force on June 17, 2019, an application may proceed to registration without any declaration of use and without any claimed date of first use. The registration certificate filed by the Complainant, consistent with that regime, sets out no date of first use. Whatever evidentiary weight a registration may carry as to the facts set out in it, a registration of this kind is not evidence that the mark had been used in Canada, or had acquired any reputation in Canada, on any particular date, let alone on a date nearly two years before the registration issued.

Nor did the Complainant file any evidence of use of the CHOMPS Mark in Canada before June 2, 2021, notwithstanding that the first requirement of the Policy turns upon it. The Complaint itself states only that the Complainant launched in the United States in 2012 and “distributes its meat-based snacks ... across the United States and Canada” in the present tense, without saying when distribution in Canada began.

The interpretation of Paragraph 3.1(a) which the Panel adopts is not new. In [*Cheap Tickets and Travel Inc. v. E-mail.ca Inc.*](#), CIRA Dispute No. 00004 (BCICAC, January 31, 2003), one of the earliest decisions under the Policy, a unanimous three-member panel (Freedman, Haigh Q.C. and Flaherty) considered a complaint in which the complainant’s application had been filed before the domain name was registered but the registration had issued afterwards. The panel held that “the trade-mark application is not evidence that the CHEAP TICKETS trade-mark was distinctive either on the date of the application or on September 16, 1999 (the domain name registration date)”, and that the complainant was accordingly required to establish, by evidence, that it had used the mark in Canada before the domain name registration date. Having failed to do so, the complainant failed on the first requirement.

The same conclusion was reached in [*Jobrapido, S.r.l. v. Langue*](#), CIRA Dispute No. 00186 (April 20, 2012), in which the complainant’s application was pending when the domain name was registered and the registration issued some five months later. The panel held that the registration could not establish Rights as of the earlier date, that the pending application did not do so either, and that no use of the mark in Canada before the domain name registration had been shown. The complaint was dismissed on that ground alone.

The question received its most thorough treatment in [*PicMonkey, LLC and PicM \(Cayman\) L.P. v. Whois Privacy Services Inc.*](#), BCICAC File No. DCA-1808-CIRA (November 22, 2016), at paragraphs 32 to 42. There, a three-member panel (Freedman, Margles and Manson Q.C.) considered and rejected the argument that, because section 34 of the *Trademarks Act* deems an application to have been filed on an earlier date for purposes of priority, a registration which later issues confers Rights as of that date for the purposes of the Policy. The panel held that the definition of Mark in Paragraph 3.2 is exhaustive and does not include an application for registration; that treating an application or its filing date as sufficient would also disregard the express temporal requirement in Paragraph 4.1(a); and that actual use in Canada of an unregistered trademark before the domain name is registered may suffice under Paragraph 3.2(a), irrespective of whether or when an application has been filed, but the complainants

there had made no assertion, and provided no evidence, of any such use. The panel expressly considered the contrary decision in *Twenga*, discussed below, and declined to follow it, observing that to do so would effectively amend the Policy and alter the balance it strikes between trademark owners and registrants.

The evidentiary point has been made in other decisions under the Policy. In [*CloudFlare, Inc. v. Dave Chandler*](#) (<cloudflare.ca>) (Resolution Canada, Inc., September 2, 2015), at paragraphs 19 to 24, a three-member panel (Groom, Bourne and Scassa) found that, although the complainant's Canadian registration claimed use since April 21, 2010, no actual evidence of use in Canada before the domain name was registered on November 2, 2012 had been filed, and that the complainant had accordingly not established Rights prior to the registration date.

Similarly, in [*Forest Protection Limited v. 1687734 Ontario Inc.*](#) (<fpl.ca>), CIIDRC File No. 15576-CDRP (July 14, 2021), a three-member panel observed that although the complainant's registration claimed a date of first use preceding the registration of the domain name, "Complainant has provided no evidence of such usage and, therefore, it is unclear from the record in this proceeding whether Complainant actually 'had Rights prior to the date of registration of the domain name'". Here, unlike in those cases, the Complainant's registration does not even identify a claimed date of first use; and in any event there is no evidence before the Panel of use in Canada before the Registration Date.

The Panel is aware that a different approach has been taken in some decisions under the Policy. In [*TWENGA v. privacy protected*](#), CIRA Decision No. 00177, BCICAC File No. DCA-1351-CIRA (January 23, 2012) (<twenga.ca>), the sole panelist, while acknowledging *Cheap Tickets*, stated at paragraph 36 that he was "prepared to find that once a trade-mark has been registered, that the trade-mark owner has rights in the Mark from the date of application and thereafter". The panelist went further in the circumstances of that case and, because the Canadian registration had been obtained on the basis of a French registration pursuant to former section 14(1)(b) of the *Trade-marks Act*, since repealed, accepted Rights back to the November 18, 2004 date of the French registration.

With respect, the Panel is unable to follow *Twenga* on this point, and prefers the reasoning in *Cheap Tickets*, *Jobrapido* and *PicMonkey*. Paragraph 3.1(a) asks whether the Complainant "had Rights prior to the date of registration of the domain name". That is a question of historical fact, to be answered by reference to what existed in Canada on the Registration Date. On that date, the Complainant had neither a registered trademark nor, on the evidence, a trademark that had been used in Canada. Neither an

application filing date, a foreign priority date, nor a foreign registration, without more, satisfies Paragraph 3.2(a) or 3.2(c) as of the Registration Date.

The temporal requirement in Paragraph 3.1(a) is an express feature of the Policy, which confines its remedy to domain names registered after Rights in a Mark existed in Canada, and a panel has no authority to dispense with it.

The Panel notes that Paragraph 3.2 of the Resolution Rules expressly contemplates that a complainant may refer to decisions in dispute resolution proceedings applicable to domain names registered under other top-level domains which it considers persuasive, and panels under the Policy have accordingly drawn upon decisions under the UDRP, and the [*WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition \(“WIPO Overview 3.1”\)*](#), where the relevant provisions or principles are analogous. On this question they are. UDRP panels have consistently held that “a pending trademark application would not by itself establish trademark rights” (WIPO Overview 3.1, section 1.1.4; see, for example, [*Bayer AG v. Super Privacy Service LTD c/o Dynadot*](#), WIPO Case No. D2020-0243), and that unregistered rights must be established by evidence that the mark has become a distinctive identifier which consumers associate with the complainant’s goods or services, conclusory allegations being insufficient (WIPO Overview 3.1, section 1.3).

If anything, the CDRP is stricter than the UDRP in this respect. Under the UDRP, trademark rights need only exist at the time the complaint is filed for the purposes of the first element, and the relative timing of those rights and the domain name registration is ordinarily considered under the bad faith element (WIPO Overview 3.1, sections 1.1.3 and 3.8). The Policy, by contrast, expressly embeds the temporal requirement in the first element itself.

The Panel adopts the interpretation of Paragraph 3.1(a) set out in *Cheap Tickets*, *Jobrapido* and *PicMonkey*: where a Canadian trademark registration issued after the registration of the domain name, the registration does not, without more, establish that the complainant had Rights in a Mark before the domain name was registered, and a complainant relying upon Paragraph 3.2(a) must establish by evidence that the trademark had been used in Canada for the purpose of distinguishing its wares, services or business before the domain name was registered. The Complainant filed no such evidence.

The Panel accordingly finds that the Complainant has not established that it had Rights in the CHOMPS Mark prior to the Registration Date, and that the first requirement of Paragraph 4.1 of the Policy has not been satisfied.

4.3.2 The Remaining Elements

In light of the Panel’s finding on the first requirement, the Complaint must fail, and it is unnecessary to determine whether the Registrant has a legitimate interest in the Domain Name or registered it in bad faith. The Panel accordingly makes no findings on those elements.

Nor is it necessary for the Panel to resolve the parties’ competing accounts of the role of 401 Media, the circumstances in which the Registrant acquired the Domain Name, or the matters raised in the parties’ supplementary filings. Those matters go to legitimate interest and bad faith, and not to whether the Complainant had Rights in a Mark on June 2, 2021. The Panel expresses no view on them.

4.3.3 Concluding Observations

The Panel’s finding is made solely within the meaning of the Policy and for the purposes of this proceeding. It is not a finding that the Complainant lacks rights in the CHOMPS Mark today; the Complainant plainly holds a subsisting Canadian registration. Nor is it a determination of any rights or obligations that may arise under the *Trademarks Act* or other principles of law, which remain open to determination by a court of competent jurisdiction. It determines only that, on the evidence before the Panel, the Complainant did not have Rights in a Mark, as the Policy defines those terms, before the Domain Name was registered.

5. DECISION AND ORDER

For the above reasons, and in accordance with Paragraph 4 of the Policy and Paragraph 12 of the Resolution Rules, the Panel orders that the Complaint is dismissed.

Made as of August 24, 2026.

SIGNATURE OF PANEL

“Douglas M. Isenberg”

Douglas M. Isenberg

“Carol Roberts”

Carol Roberts

“Zak Muscovitch”

Zak Muscovitch (Chair)