

ADMINISTRATIVE PANEL DECISION

National Federation of State High School Associations v. Domain Admin,
Domain Registries Foundation
Case No. D2022-3408

1. The Parties

The Complainant is National Federation of State High School Associations, United States of America (“United States”), represented by Nelson Mullins Riley & Scarborough, L.L.P., United States.

The Respondent is Domain Admin, Domain Registries Foundation, Panama.

2. The Domain Name and Registrar

The disputed domain name <nfh networks.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 14, 2022. On September 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 14, 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 (Domains By Proxy, LLC, United States) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 15, 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 September 16, 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 proceeding commenced on September 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 12, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 17, 2022.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on October 21, 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

A. Complainant

Founded in August 2013, the Complainant is a non-profit organisation headquartered in the State of Illinois in the United States and a leading provider of services relating to the promotion of high school sports and performing arts in the United States, under the trade mark NFHS NETWORK (the "Trade Mark").

The Complainant has been using the Trade Mark continuously since 2013, including via its website "www.nfhsnetwork.com", having registered its domain name <nfhsnetwork.com> on November 26, 2012.

The Complainant is also the owner of United States registration No. 6,165,456 for the Trade Mark, with a registration date of September 29, 2020.

B. Respondent

The Respondent is apparently a company incorporated in Panama.

C. The Disputed Domain Name

The disputed domain name was registered on March 4, 2015.

D. Use of the Disputed Domain Name

The disputed domain name is resolved to an English language parking page with sponsored links, some of which are related to high school sports news and live broadcast streaming (the "Website"). It has also been offered for sale for a minimum price of USD 7,500 via the Afternic platform.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Trade Mark.

The Complainant contends that it consists of 51 member state associations, serving 19,500 high schools and more than 12 million young people in the United States. In addition, the Complainant showcases high school sports and performing arts online through its network, which the Complainant contends is the leader in streaming Live and On Demand high school sports and postseason sports, as well as other high school activities.

The Complainant contends that since its creation in 2013, the Complainant has extensively and continuously used the Trade Mark in connection with the marketing, advertising, promotion, and provision of the Complainant's Live and On Demand high school sports streaming services through its website at "www.nfhsnetwork.com" and various apps.

The Complainant further contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and the disputed domain name has been registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

The Complainant must prove each of the three elements in paragraph 4(a) of the Policy in order to prevail.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has rights in the Trade Mark dating from 2013 acquired through use.

The disputed domain name consists of a common, obvious, or intentional misspelling of the Trade Mark – namely, the Trade Mark rendered in the plural, with the letter “s” (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.9). The generic Top-Level Domain (“gTLD”) “.com” is viewed as a standard registration requirement, and as such is disregarded under the confusing similarity test ([WIPO Overview](#), section 1.11).

The Panel therefore finds that the disputed domain name is confusingly similar to the Trade Mark.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name even if the respondent has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

The Complainant has not authorised, licensed, or permitted the Respondent to register or use the disputed domain name or to use the Trade Mark. The Panel finds on the record that there is therefore a *prima facie* cas that the Respondent has no rights or legitimate interests in the disputed domain name, and the burden is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that it has acquired any trade mark rights in respect of the disputed domain name or that the disputed domain name has been used in connection with a *bona fide* offering of goods or services. To the contrary, the disputed domain name consists of a typo of the Complainant's Trade Mark and domain name, and has been resolved to a parking page with sponsored links, some of which are related to high school sports news and live broadcast streaming, the services provided by the Complainant since 2013 under the Trade Mark. The disputed domain name has also been offered for sale for a minimum price of USD 7,500 via the Afternic platform.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain name, and there has been no evidence adduced to show that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

The Panel finds that the Respondent has failed to produce any evidence to rebut the Complainant's *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Panel therefore finds that the Respondent lacks rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Given the reputation of the Complainant and its prior use of the Trade Mark in the high school sports field; the uniqueness of the Trade Mark; the typo composition of the disputed domain name compared to the Complainant's Trade Mark and domain name; the manner of the Respondent's use of the disputed domain name; and the Respondent's offer for sale of the dispute domain name referred to above, the Panel finds, in all the circumstances, that the requisite element of bad faith has been made out pursuant to both paragraph 4(b)(iv) and paragraph 4(b)(i) of the Policy.

The evidence in the present case suggests that the Respondent has targeted the Complainant in registering and using the disputed domain name; and that there cannot be any actual or contemplated good-faith use of the disputed domain name by the Respondent.

For all the foregoing reasons, the Panel concludes that the disputed domain name has been registered and is being used in bad faith.

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 <nfh networks.com> be transferred to the Complainant.

/Sebastian M.W. Hughes/

Sebastian M.W. Hughes

Sole Panelist

Dated: November 4, 2022