

ADMINISTRATIVE PANEL DECISION

The Choctaw Nation of Oklahoma v. Mitchell Bailey, Mitchell Bailey Fitness
Case No. D2026-3146

1. The Parties

Complainant is The Choctaw Nation of Oklahoma, United States of America ("US" or "United States"), represented by Dunlap Coddling, P.C., US.

Respondent is Mitchell Bailey, Mitchell Bailey Fitness, US, represented by Swann & Partners PLLC, US.

2. The Domain Names and Registrar

The disputed domain names, <choctawcasinobrokenbow.com> and <choctawcasinohochatown.com> (the "Domain Names"), are registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 16, 2026. On July 17, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On July 17, 2026, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names, which differed from named Respondent (Registration Private, Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on July 20, 2026, 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 July 23, 2026.

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 July 24, 2026. In accordance with the Rules, paragraph 5, the due date for Response was August 13, 2026. Respondent's lawyer sent email communications to the Center on August 10, 2026, August 11, 2026, and August 18, 2026, in which, among other things, an extension was requested so that Respondent could identify and engage appropriate legal counsel. Accordingly, the due date for the Response is extended to August 28, 2026. On August 31, 2026, after the deadline for

submission of the Response has passed, the Center notified the Parties that it would proceed to appoint the panel.

The Center appointed Christopher S. Gibson as the sole panelist in this matter on September 3, 2026. 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 is a federally recognized Indian tribe with more than 225,000 tribal members and over 13,500 employees and associates, which operates tribal-owned businesses within its reservation in southeastern Oklahoma. Complainant has used the CHOCTAW CASINO mark in connection with casino services since at least 1989. Complainant operates eight casino locations under the CHOCTAW CASINO mark, including locations in Broken Bow and Hochtatown, Oklahoma. Complainant also operates a website at the domain name <choctawcasinos.com> in connection with its casino and resort services.

Complainant owns United States Trademark Registration No. 2,860,432 for CHOCTAW CASINO, registered in class 41 for casino services on July 6, 2004, with claimed first use in commerce dating from 1989. Complainant indicates that it also owns a total of 50 other registered and pending US trademarks. Complainant states it has developed a renowned and recognizable CHOCTAW CASINO mark due in large part to the sizable expenses that Complainant has devoted to print, radio, and television advertising of the CHOCTAW CASINO mark, having extensively used, promoted, and advertised the mark since at least 1989.

The Domain Names were both registered on June 16, 2017. The evidence submitted by Complainant shows that, at the time relevant to the filing of the Complaint, the Domain Name <choctawcasinobrokenbow.com> resolved to a parked page displaying pay-per-click (“PPC”) links, while the Domain Name <choctawcasinohochtatown.com> resolved to a parked page displaying casino-related content and related PPC links. Apart from the evidence of the content appearing at the Domain Names at the time relevant to the filing of the Complaint, the record does not contain any documentary evidence establishing the historical content, if any, appearing at the Domain Names throughout the period since their registration in 2017.

In an August 10, 2026, communication to the Center, Respondent’s lawyer stated that Respondent is a small businessman and a lifelong resident of the Broken Bow and Hocha Town area and had “continuously used his domains for nearly 10 years” to facilitate and generate business for his cabin rental service and related enterprises. No documentary evidence was submitted to substantiate the nature or duration of such use.

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 Names.

Notably, Complainant has provided evidence of ownership for its CHOCTAW CASINO trademark and contends that the Domain Names are confusingly similar to this mark. Each Domain Name incorporates the mark in its entirety, adding only a geographic term – “brokenbow” in one case and “hochtatown” in the other. Complainant emphasizes that these geographic terms correspond to locations in Oklahoma where Complainant operates casinos under its CHOCTAW CASINO mark. Complainant therefore contends that the composition of the Domain Names suggests affiliation with Complainant and its casino services.

Second, Complainant contends that Respondent has no rights or legitimate interests in respect of the Domain Names. Complainant states that Respondent registered the Domain Names in 2017, many years after Complainant commenced use of its CHOCTAW CASINO mark and after registration of the mark in the US. Complainant states that Respondent is not affiliated with Complainant and has never been licensed or otherwise authorized to use the CHOCTAW CASINO mark. According to Complainant, since acquiring the Domain Names in 2017, Respondent has not made any use of them in connection with a bona fide offering of goods or services. Rather, it appears Respondent has no legitimate reason for using the Domain Names except to cybersquat. Complainant asserts Respondent could be harboring the Domain Names for nefarious purposes and is effectively preventing Complainant from creating a website using the Domain Names that is indicative of Complainant's mark and related casino businesses. Complainant further contends that Respondent is not commonly known by either Domain Name and has not made a legitimate noncommercial or fair use of them.

Third, Complainant contends that the Domain Names were registered and are being used in bad faith. Respondent's registration of the Domain Names occurred only after Complainant's trademark rights in the CHOCTAW CASINO mark officially accrued, with Complainant's CHOCTAW CASINO mark registered on July 6, 2004, whereas Respondent's Domain Names were not registered until June 16, 2017. Complainant argues that Respondent must have been aware of Complainant and its CHOCTAW CASINO mark when registering the Domain Names because each incorporates the mark in its entirety together with the name of a location associated with Complainant's casino operations. Respondent had at least constructive notice, if not actual notice, of the mark when registering the Domain Names by virtue of Complainant's robust presence in the gaming industry and federally registered CHOCTAW CASINO mark. This knowledge suggests Respondent acted with opportunistic bad faith in registering the Domain Names to make an illegitimate use of them.

Complainant further contends that Respondent's non-use of the Domain Names constitutes bad faith under the passive holding doctrine. Because Respondent has not attempted to use the Domain Names for any legitimate purpose or establish a functional website in connection with them, it is apparent that Respondent's intent was to cybersquat on the Domain Names to the detriment of Complainant. Complainant asserts, among other things, that Respondent registered the Domain Names to prevent Complainant from registering them and the circumstances suggest the Domain Names may have been registered or acquired primarily for purposes of sale, rental, or transfer for consideration in excess of Respondent's out-of-pocket costs. Complainant requests transfer of the Domain Names.

B. Respondent

Respondent's lawyer, who indicated that he acts for Respondent's on matters unrelated to intellectual property or related issues, submitted an email on August 10, 2026. He stated that Respondent "is a life-long resident of the Broken Bow and Hocha Town area and should be allowed to be properly represented in this matter". He requested an extension to give Respondent time to locate and engage legal counsel with relevant experience and allow that counsel time to become familiar with the facts of the case and file a response. In response to this request, the Center extended the deadline for the Response to August 28, 2026; however, Respondent did not submit a Response.

Respondent's lawyer in his August 10, 2026, email also stated that Respondent "is a small businessman and has continuously used his domains for nearly 10 years in order to facilitate and create business for his cabin rental service and related enterprises. After all these years, a wealthy tribe decides they should have these domains and filed a complaint".

6. Discussion and Findings

In order to succeed on its Complaint, Complainant must demonstrate that the three elements set forth in paragraph 4(a) of the Policy have been satisfied. These elements are that:

- (i) the Domain Names registered by Respondent are identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Names; and
- (iii) Respondent has registered and is using the Domain Names 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 Complainant's trademark and the Domain Names. WIPO Overview of WIPO Panel Views on Select UDRP Questions ("[WIPO Overview 3.1](#)"), section 1.7.

Complainant has shown rights in respect of its CHOCTAW CASINO trademark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.2.1. The Panel finds that Complainant's CHOCTAW CASINO mark is recognizable within the Domain Names. Although the addition of other terms – here, the town names Broken Bow and Hocha Town – may bear on assessment of the second and third elements, the Panel finds the addition of these terms does not prevent a finding of confusing similarity between the Domain Names and the mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.8. Accordingly, the Domain Names are confusingly similar to Complainant's mark for the purposes of the Policy.

Accordingly, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving that 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 3.1](#), section 2.1.

Here, Complainant has established a prima facie case. Complainant has not authorized Respondent to use the CHOCTAW CASINO mark, there is no evidence that Respondent has been commonly known by either Domain Name, and the evidence submitted by Complainant shows the Domain Name <choctawcasinobrokenbow.com> resolved to a parked page displaying PPC links, while the Domain Name <choctawcasinohochatown.com> resolved to a parked page displaying casino-related content and related PPC links.

The Panel has considered Respondent's lawyer's assertion that Respondent had used the Domain Names for nearly 10 years to facilitate and generate business for his cabin rental service and related enterprises. In the present case, however, Respondent did not submit evidence demonstrating the asserted use. Despite receiving an extension of time in which to respond, Respondent submitted no Response and no screenshots or archived webpages, advertisements, business records, booking information, correspondence, or other evidence showing how either Domain Name had been used in connection with a cabin-rental business or other enterprise.

Moreover, the composition of the Domain Names is significant. Each incorporates Complainant's CHOCTAW CASINO mark in its entirety and combines it with a geographic designation corresponding to an area in which Complainant operates casino services. Respondent's own lawyer states that Respondent is a lifelong resident of the Broken Bow and Hocha Town area. In these circumstances, the Panel considers it more likely than not that Respondent was aware of Complainant and its CHOCTAW CASINO mark when selecting the Domain Names. Respondent has not explained why it was necessary to adopt domain names consisting of the Complainant's entire CHOCTAW CASINO mark coupled with geographic terms associated with Complainant's casino operations. The nature of the Domain Names carries a risk of implied affiliation with Complainant. Moreover, the Domain Names resolved to parked pages displaying PPC links relating to casino services. Respondent's unsupported assertion concerning his historical use of the Domain Names is therefore insufficient on this record to rebut Complainant's prima facie showing.

Having reviewed the available record, the Panel finds that Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Names, which Respondent has failed to rebut. Accordingly, 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. [WIPO Overview 3.1](#), section 3.1, provides further guidance that "bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark".

Here, the Panel finds on the balance of probabilities that Respondent registered the Domain Names with knowledge of Complainant and its CHOCTAW CASINO mark. Complainant's registered trademark rights substantially predate Respondent's June 16, 2017, registration of the Domain Names. Moreover, both Domain Names reproduce the CHOCTAW CASINO mark in its entirety and add geographic terms corresponding to areas in which Complainant operates its casino business. The Domain Names were registered by same Respondent on the same day. In addition, Respondent is reportedly located in Broken Bow, Oklahoma, according to the Registrar's verification reply, and, according to Respondent's own lawyer, is a lifelong resident of the Broken Bow and Hocha Town area. Taken together, these circumstances support the inference that Respondent was aware of Complainant and deliberately selected the Domain Names because of their association with Complainant and its CHOCTAW CASINO mark.

The Panel has again considered the statement by Respondent's lawyer that Respondent continuously used the Domain Names for nearly 10 years in connection with his cabin-rental service and related enterprises. The Panel does not disregard this assertion merely because Respondent failed to file a formal Response. However, no evidence was provided to establish what that use consisted of, when it commenced, what content appeared on the corresponding websites, or whether any such use was undertaken in a manner that avoided creating an impression of association with Complainant.

Moreover, even accepting that Respondent operates or operated a cabin-rental business in the Broken Bow and Hocha Town area, Respondent has offered no explanation for selecting the Domain Names incorporating the entirety of Complainant's CHOCTAW CASINO mark. On the present record, the Panel finds that the claimed connection to a cabin-rental business does not provide a credible explanation for Respondent's particular choice of the Domain Names sufficient to overcome the inference of targeting arising from their composition and the surrounding circumstances. Further, the case record shows that at the time relevant to the filing of the Complaint, the Domain Names resolved to parked pages with casino-related content and PPC links relating to casino services. Panels have held that a respondent cannot disclaim responsibility for content appearing on the website associated with its domain name. [WIPO Overview 3.1](#), section 3.5. The Panel therefore finds, on the balance of probabilities and based on the totality of the circumstances, that Respondent registered the Domain Names in contemplation of Complainant and its CHOCTAW CASINO mark and that Respondent's use of the Domain Names in connection with parked pages displaying PPC links in the circumstances constitutes bad faith under the Policy.

Accordingly, the Panel finds that 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 Domain Names <choctawcasinobrokenbow.com> and <choctawcasinohochatown.com> be transferred to Complainant.

/Christopher S. Gibson/

Christopher S. Gibson

Sole Panelist

Date: September 30, 2026