

## **ADMINISTRATIVE PANEL DECISION**

National Federation of State High School Associations v. W S, WIS INC  
Case No. D2022-3605

### **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 W S, WIS INC, Cayman Islands, United Kingdom.

### **2. The Domain Name and Registrar**

The disputed domain name <nfhnsnetworkk.com> (the “Domain Name”) 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 29, 2022. On September 29, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 30, 2022, 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 (Domains By Proxy, LLC, United States) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 3, 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 6, 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 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default October 28, 2022.

The Center appointed Jeremy Speres as the sole panelist in this matter on November 3, 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**

The Complainant is a non-profit corporation incorporated in the State of Illinois, United States consisting of 51 State high school associations serving 19,500 high schools and more than 12 million young people in the United States. It is an advocate for high school athletics as well as fine and performing arts programs in the United States. Since 2013, it has been party to a joint venture named “NFHS Network”, which streams live and on-demand high school sports. The Complainant’s events are available to watch online at its website “[www.nfhsnetwork.com](http://www.nfhsnetwork.com)”, and through various apps. The Complainant owns United States trade mark registration No. 6165456 for NFHS NETWORK, registered on September 29, 2020, in class 41. The Complainant’s NFHS NETWORK mark has been recognised as being well known by a prior UDRP panel. See *National Federation of State High School Associations v. Angga Nuryuana, ngolor*, WIPO Case No. [D2022-1973](#).

The Domain Name was registered on February 15, 2021 and the Complainant’s evidence establishes that it has initially been passively held and then has redirected to third party sites *inter alia* offering browsers, or browser extensions, for installation.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant contends that the Domain Name is confusingly similar to its NFHS NETWORK mark as a typosquatting variant, that the Respondent has no rights or legitimate interests in it, and the Domain Name was registered and used in bad faith given that the Complainant’s mark is well known, the Respondent either knew or should have known of it, and the Respondent has sought to rely on confusion with the Complainant’s mark for its own commercial gain.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

##### **A. Identical or Confusingly Similar**

Where the trade mark is recognisable within the domain name, the domain name will normally be considered confusingly similar to the mark (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) at section 1.7). Previous UDRP panels have held that where a repeated consonant in a disputed domain name (which repeated consonant is not found in a complainant’s trade mark) does not significantly affect the appearance or pronunciation of the trade mark, such conduct constitutes typosquatting (*Humana Inc. v. Cayman Trademark Trust*, WIPO Case No. [D2006-0073](#)). In this case, the repeated consonant “k” in the Domain Name does not prevent a finding of confusing similarity because the NFHS NETWORK mark remains recognisable within the Domain Name ([WIPO Overview 3.0](#) at section 1.9). The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

## B. Rights or Legitimate Interests

The Complainant's un rebutted evidence establishes that its NFHS NETWORK mark was registered and well known prior to registration of the Domain Name. The Domain Name is confusingly similar to the Complainant's NFHS NETWORK mark and the Complainant has certified that the Domain Name is unauthorised by it.

The Respondent has provided no explanation as to why it chose the Domain Name. There is no semantic relationship or any other obvious connection between the Domain Name and the third party websites to which it has redirected which may have imbued the Respondent's actions with *bona fides*. In the circumstances, given what is stated below in relation to bad faith, the likelihood is that the Respondent intended to take advantage of the Complainant's trade mark to divert users to third party sites for its commercial gain, or the Respondent intended to sell the Domain Name to the Complainant, which cannot confer rights or legitimate interests. The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an un rebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

## C. Registered and Used in Bad Faith

The Panel has independently established that the Respondent has been the unsuccessful respondent in at least 22 prior UDRP cases, including, relatively recently: *Lincoln Global, Inc., The Lincoln Electric Company v. Registration Private, Domains by Proxy, LLC / W S, WIS INC*, WIPO Case No. [D2021-4380](#). The Respondent is a serial cybersquatter and this case would appear to be a continuation of that trend.

The Complainant's mark was well known prior to registration of the Domain Name. A Google search for the Domain Name (minus the Top-Level Domain) reveals results overwhelmingly relating to the Complainant. The Respondent did not respond to the Complaint and has a history of cybersquatting. Taken together this all indicates that the Respondent either knew, or should have known, that the Domain Name was confusingly similar to the Complainant's mark ([WIPO Overview 3.0](#) at section 3.2.2). The use of the Domain Name for redirection to third party websites, ostensibly for the Respondent's commercial gain, brings the Domain Name squarely within paragraph 4(b)(iv) of the Policy. The previous non-use of the Domain Name does not change the Panel's findings of the Respondent's bad faith under the circumstances of this case.

Moreover, UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names comprising typos) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith ([WIPO Overview 3.0](#) at section 3.1.4).

The Panel has independently established that the Domain Name is listed for sale on a prominent domain name marketplace for USD 299, which is likely, without evidence from the Respondent to the contrary, in excess of the Respondent's out-of-pocket expenses relating directly to the Domain Name. Thus, paragraph 4(b)(i) of the Policy is also applicable.

The Complainant has satisfied paragraph 4(a)(iii) 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 Name, <nfhsnetworkk.com>, be transferred to the Complainant.

/Jeremy Speres/

**Jeremy Speres**

Sole Panelist

Date: November 17, 2022