

## **ADMINISTRATIVE PANEL DECISION**

**Boston Red Sox Baseball Club Limited Partnership v. Christopher Shea**  
**Case No. D2022-3769**

### **1. The Parties**

Complainant is Boston Red Sox Baseball Club Limited Partnership, United States of America, represented by Fross Zelnick Lehrman & Zissu, P.C., United States of America.

Respondent is Christopher Shea, United States of America.

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

The disputed domain names <worcesterrredsox.biz>, <worcesterrredsox.co>, <worcesterrredsox.com>, <worcesterrredsox.info>, <worcesterrredsox.mobi>, <worcesterrredsox.net>, and <worcesterrredsox.org> (the “Domain Names”) are all registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 7, 2022. On October 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On October 11, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email to Complainant on October 17, 2022, 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 October 19, 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 Respondent of the Complaint, and the proceedings commenced on October 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 8, 2022. The Response was filed with the Center on November 5, 2022.

On November 11, 2022, the Center suspended the proceedings, on December 13, 2022, and January 11, 2023, the Center extended the suspension period upon Complainant's requests. On February 10, 2023, Complainant requested that the proceedings be reinstated. The proceedings were reinstated and the Center informed the Parties that it would proceed to panel appointment on February 13, 2023.

Complainant filed a supplemental filing on February 10, 2023.

The Center appointed Robert A. Badgley as the sole panelist in this matter on February 14, 2023. 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.

On February 10, 2023, Complainant submitted an unsolicited supplemental submission to the Center, with annexes. In its discretion, the Panel has considered this submission, as it addresses points Respondent raised in his Response, many of which could not reasonably have been anticipated at the time of the filing of the initial Complaint.

#### **4. Factual Background**

Complainant owns and operates a Major League Baseball ("MLB") team, the Boston Red Sox. The Red Sox team has existed for more than a century, and Complainant has used the trademark RED SOX since 1908 to identify the team. There is ample evidence in the record to support Complainant's assertion that RED SOX is one of the most famous trademarks in field of American sports. The RED SOX trademark is displayed on the team's baseball jerseys, and is prominently displayed at Fenway Park, the stadium hosting Complainant's home games for more than a century, and is displayed on innumerable merchandise. Complainant has featured some of the most famous players in MLB history, including Babe Ruth (whom Complainant sold to the rival New York Yankees early in his unparalleled career), Ted Williams, Carl Yastrzemski, Fred Lynn, Jim Rice, Carlton Fisk, Wade Boggs, Pedro Martinez, and David Ortiz.

Complainant holds numerous registered trademarks for RED SOX, including United States Patent and Trademark Office Reg. No. 1,095,475, registered on July 4, 1978 in connection with "entertainment services in the nature of baseball exhibitions".

Complainant owns a minor-league affiliated baseball team called the Worcester Red Sox. (Worcester, like Boston, is a town in the Commonwealth of Massachusetts.) That team began playing in Worcester in 2021. For many years before 2021, the team played in nearby Pawtucket, Rhode Island, and was known as the Pawtucket Red Sox. The RED SOX mark has been prominently displayed at the stadium hosting the minor league team's home games (both Pawtucket and now Worcester). The RED SOX mark also appears on the Worcester Red Sox player uniforms and on merchandise offered for sale.

According to Complainant, it announced the move from Pawtucket to Worcester on August 17, 2018. For several years prior to the announcement, however, there had been discussion or speculation in the media about the minor league team moving out of Pawtucket, and perhaps to Worcester. For instance, a March 23, 2015 article in GoLocal Worcester News discussed the prospect of the Pawtucket Red Sox relocating in Providence (Rhode Island) or perhaps Worcester. Three weeks earlier, on March 4, 2015, that same source reported that certain Worcester City Councilors had taken steps to try to convince Complainant to relocate the Pawtucket Red Sox to Worcester.

Complainant also uses the RED SOX mark extensively in social media. For instance, the Boston Red Sox Facebook page has more than 4.8 million followers, while the Worcester Red Sox Facebook page has more than 19,000 followers.

All but one of the Domain Names were registered on July 2, or July 3, 2015, and the other Domain Name, <worcesterrredsox.mobi>, was registered on May 7, 2019. According to screenshots dated October 7, 2022 and annexed to the Complaint, the Domain Name <worcesterrredsox.com> resolved, in September 2022, to a website featuring the following banner:

WELCOME TO WORCESTER  
REDSOX.COM  
SEPTEMBER  
2022

Beneath this banner is various content of a political nature, with headlines such as, “Empty Shelves Joe wants your vote in 2024”, “Big increase in food insecurity”, and so forth. There are also some commercial hyperlinks or links to sites seeking political donations.

The other Domain Names have never resolved to an active website; rather, they have resolved to parking pages set up by the Registrar.

On May 17, 2019, Respondent received the following email from a representative of the Pawtucket Red Sox:

“My name is [RC] with the Pawtucket Red Sox and the soon to be, Worcester Red Sox. I was hoping you and I could get together to discuss your 2015 acquisition of <worcesterrredsox.com>. I would love to have the opportunity to grab lunch or coffee with you to see how we can potentially work together. My schedule is pretty open the next few weeks and would enjoy meeting you.”

It appears that RC and Respondent eventually met, but the meeting did not result in a transfer of the Domain Names. On December 6, 2019, Respondent reached out to RC by email and stated that he was “getting ready to sell” the Domain Names, and asked RC whether he was “still interested” in buying them. Respondent later quoted a price of USD 100,000 to sell the Domain Names.

The website at <worcesterrredsox.com> did not contain a disclaimer of affiliation with Complainant until the Complaint in this proceeding was filed, after which a disclaimer appeared.

## **5. Parties’ Contentions**

### **A. Complainant**

Complainant contends that it has established all three elements required under the Policy for a transfer of the Domain Names.

### **B. Respondent**

The entire substance of Respondent’s position is set forth below, with minor edits and redactions to clean up grammar and avoid repetition and irrelevant material:

“My name is Christopher Shea. I live in [...] Rhode Island now, although I lived in Worcester County most of my life. I make my living as a carpenter. Having been a Red Sox fan all my life and living in Worcester County at the time is what I based <worcesterrredsox.com> on. At the time Worcester Red Sox did not exist nor were they discussed or even in the planning. I want to make it very clear that I never contacted Red Sox seeking a profit; they contacted me first. [...]

Complainant claims I registered worcesterrredox.com and the six other domain names in bad faith. On March 7, 2015, I had no idea that there would be a Worcester Red Sox baseball team, nobody did including the Red Sox. [...] I have a popular website that was established three years before the Worcester Red Sox existed and uses the domain address <worcesterrredsox.com>. [...] I have never

made a profit, sold or traded anything through my website <worcesterrredsox.com>. The Complainant has failed to show evidence of any kind that I have profited from <worcesttredsox.com> or have taken profit from the Red Sox organization.

Complainant claims there were rumors that the Worcester Red Sox were planning on moving from Pawtucket Rhode Island at the time I registered my domain names in question. The Worcester Red Sox did not exist in 2015 or in Pawtucket Rhode Island. Let the record show that they were called the Pawtucket Red Sox. Why would a baseball team be named after another city, in another state? The Worcester Red Sox in Pawtucket Rhode Island? This is just an attempt by the Complainant to purport that I have done this in bad taste or in a nefarious manner. The Complainant's attempts to suggest somehow I knew the Pawtucket Red Sox would move to Worcester Ma. is weak at best. Why would a carpenter be reading an online local Chamber of Commerce website about a man who wishes the Red Sox would come to his hometown someday with a circulation of 3,800 people? Why would a carpenter be reading a basketball blog from a college? The Complainant has failed to show any major media source by means of TV, Radio, or Newspapers that would suggest the common man would in fact know that the Pawtucket Red Sox would move to Worcester Massachusetts years later. If the Pawtucket Red Sox knew they were moving to Worcester in 2015, why didn't they secure <worcesterrredsox.com> and the six other domains? Again my actions to register <worcesterrredsox.com> had nothing to do with a team that didn't exist at the time. [...]

My website does indeed contain a disclaimer that states this website is in no way connected to the Boston Red Sox. A connection between my political website and the Worcester Red Sox is just not realistic to the average person. [...] Complainant claims my website is profiting in a commercial manner. I have two links to third party entities in which I've made no profit, nor can the Complainant prove I have made a profit or taken profits from the Red Sox. [...]

On May 17, 2019, I received an email from ['RC'], a representative from the Pawtucket Red Sox asking me if I would like to get together to discuss my acquisition of <worcesterrredsox.com>. [...] This was my first contact with the Red Sox and I want to make it very clear that I never contacted them as the complainant states. The email from RC is obviously our first connection. We did meet in person and RC asked me if I would be interested in selling worcesterrredsox.com. I told RC that I would be interested in selling the Domain Names but I didn't know how to value them. I knew nothing about domain names or how much they cost at the time. RC at the time asked me how I could have predicted the Pawtucket Red Sox would move to Worcester Massachusetts when even the management of the Red Sox didn't know. I told RC that it was a coincidence and it had nothing to do with the Pawtucket Red Sox moving to Worcester Massachusetts in the future. At this time I did not ask for a selling price simply because I didn't have any idea what it was worth. As RC and I ended the meeting, I told him I would get ahold of him when I was ready to sell the domain names.

On June 12, 2019, I sent an email to RC stating I was ready to sell the domain names that he requested to purchase. [...] I never had any contact with the Red Sox after I sent the follow-up email. RC never responded to my email. Price was never discussed and I never asked for USD 100,000. I decided I would keep the domain name since the Red Sox were no longer interested in it. The Complainant purposely omitted RC's email in an attempt to discredit me and purport that I have done this in bad faith by suggesting I was the first party to initiate contact. [...]

Complainant claims that I cannot demonstrate any legitimate basis for the selection and continued use of the Domain Names and the website appearing at <worcesterrredsox.com> even though I maintain a website with <worcesterrredsox.com> and six other domains to protect <worcesterrredsox.com>. The Worcester Red Sox uses a shared website with links for each team in the league. They would not use my seven domain names even if they did own them.

Nobody has ever mistaken my website for a connection to the Worcester Red Sox, nor has there been any evidence that would suggest that the public has been misdirected or misled into thinking there was a connection. It's not realistic. In closing, I would like to state that <worcesterrredsox.com> and all six

of the other domains in question are rightfully owned by me and I obtained them with no intention to hurt others or to profit in any way. In 2015, If the Red Sox organization was so sure that the Pawtucket Red Sox would be moving out of state to Worcester Massachusetts four years later, why didn't they secure <worcesterredsox.com> and the six other domains in question? [...]

I am willing to transfer the domain names to the Red Sox if they are still interested in a sale, but I want to be compensated for what is rightfully mine.”

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to each of the Domain Names:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

### **6.1 Preliminary Matter: Supplemental Filing**

Paragraph 10 of the UDRP Rules vests the Panel with the authority to determine the admissibility, relevance, materiality and weight of the evidence, and also to conduct the proceedings with due expedition. According to prior UDRP panel decisions, the party submitting or requesting to submit an unsolicited supplemental filing should show its relevance to the case and why it was unable to provide the information contained therein in its complaint or response (see section 4.6 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). In its supplemental filing submitted on February 10, 2023, the Complainant responded to the Respondent’s response – including the Respondent’s claims that there were no news reports of a possible team move, or the addition of a disclaimer, neither of which it would have reasonably anticipated – and moreover provided evidence relating to the correspondence between the Parties including around the offer for sale.

### **6.2 Substantive Matters**

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

The Panel concludes that Complainant has rights in the trademark RED SOX through registration and use demonstrated in the record. The Panel also concludes that the Domain Names are confusingly similar to that mark. The addition of the geographic descriptor “Worcester” does not alter the impression of the mark vis-à-vis the Domain Names, since the entirety of the mark – RED SOX – is clearly recognizable within each of the Domain Names.

Complainant has established Policy paragraph 4(a)(i).

#### **B. Rights or Legitimate Interests**

For each of the Domain Names, pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or

- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Names. It is undisputed that Complainant has not authorized Respondent to use RED SOX in a domain name or otherwise. Based on the record presented, the Panel finds it virtually certain that Respondent was aware of the RED SOX mark when he registered the Domain Names. That mark is famous, and Respondent lives in nearby Rhode Island.

The Panel also finds it far more likely than not that Respondent was aware of the possible move of the minor league team to Worcester at the time Respondent registered the Domain Names. Respondent's denial of such knowledge rings hollow, particularly because Respondent undermined his credibility by adding a disclaimer to his website only after the Complaint in this proceeding was filed. In some respects, the knowledge of the move to Worcester is almost a red herring, because the main trademark at issue here is RED SOX – unadorned by any geographical indicator.

Respondent has not invoked any sort of "free speech" justification for his having registered the Domain Names, even though his website contained various political material wholly unrelated to Complainant. The Panel concludes that this content was entirely pretextual, as Respondent's main purpose vis-à-vis the Domain Names was to extract a profit by selling the Domain Names to Complainant. That use does not vest Respondent with any right or legitimate interest in the Domain Names.

Complainant has established Policy paragraph 4(a)(ii).

### **C. Registered and Used in Bad Faith**

For each of the Domain Names, paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation", are evidence of the registration and use of the Domain Name in "bad faith":

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Names in bad faith within the meaning of the above-quoted Policy paragraph 4(b)(i). The Panel incorporates here its discussion above in the "Rights or Legitimate Interests" section.

Respondent sought to sell the Domain Names to Complainant for USD 100,000, a very hefty markup. He also put them up for public auction for USD 50,000.

The Panel also finds that Respondent has engaged in a pattern of preclusive registrations, within the meaning of the above-quoted Policy paragraphs 4(b)(ii). These Domain Names are comprised (apart from the Top-Level Domain) the very name of the team that Complainant operates as its main minor league affiliate, namely, "Worcester Red Sox". Respondent has been depriving Complainant of the use of these Domain Names, and the number of Domain Names involved here (seven) constitutes a pattern in these circumstances.

Complainant has established Policy paragraph 4(a)(iii).

## **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 <worcesterrredsox.biz>, <worcesterrredsox.co>, <worcesterrredsox.com>, <worcesterrredsox.info>, <worcesterrredsox.mobi>, <worcesterrredsox.net>, and <worcesterrredsox.org> be transferred to Complainant.

*/Robert A. Badgley/*

**Robert A. Badgley**

Sole Panelist

Date: March 2, 2023