

ADMINISTRATIVE PANEL DECISION

National Federation of State High School Associations v. MD Masum, nfhsmedia; MD Masum, Masumit; and MD Badhon, nfhsupdate
Case No. D2023-0221

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 Respondents are MD Masum, NFHSMedia; MD Masum, Masumit; and MD Badhon, NFHSUpdate, all of Bangladesh.

2. The Domain Names and Registrars

The disputed domain names <nfhsinformer.com>, <nfhsmedia.com>, and <nfhsupdate.com> are registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 18, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 19, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (PDR Ltd. d/b/a PublicDomainRegistry.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 19, 2023, 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 the same January 19, 2023.

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 Respondents of the Complaint, and the proceedings commenced on January 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 9, 2023. Aside from two informal communications from one of

the Respondents, no substantive Response was provided. Accordingly, the Center notified the Commencement of Panel Appointment Process on February 10, 2023.

The Center appointed Ian Lowe as the sole panelist in this matter on February 16, 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.

The Complaint has been filed against multiple respondents. For the reasons set out below, the Panel finds that the three disputed domain names are under common control and that consolidation of the complaints in respect of all disputed domain names would be fair and equitable to all parties as well as providing procedural efficiency.

4. Factual Background

The Complainant is based in Indiana, United States and is the national leader and advocate for high school athletics and other disciplines in the United States. It serves around 19,500 high schools and more than 12 million young people in the United States. The Complainant also promotes amateur sports participation and athletics programmes at the high school level and provides leadership in high school activities administration.

NFHS Network is a joint venture between the Complainant and PlayOn! Sports streaming coverage of live and on demand high school sports on subscription at “www.nfhsnetwork.com”.

The Complainant is the registered proprietor United States trademark number 6165456 NFHS NETWORK registered on September 29, 2020. A search of the WIPO Global Brand Database also evidences that the Complainant is also the registered proprietor of the following United States trademark number 6103521 NFHS device mark, registered on July 14, 2020:



The Complainant operates a website at “www.nfhs.org” promoting its services and activities.

The Respondent MD Masum, Masumit is the registrant of the disputed domain name <nfhsinformer.com> (registered on October 26, 2022); MD Masum, nfhsmedia the registrant of the disputed domain name <nfhsmedia.com> (registered on December 16, 2022); and MD Badhon, nfhsupdate the registrant of the disputed domain name <nfhsupdate.com> (registered on December 21, 2022). The registrants are together referred to as the Respondent.

The disputed domain name <nfhsinformer.com> resolves to a website offering live streaming of United States high school American Football games, and news on high school football. All web pages related to this disputed domain name have in the header the following logo:



The Contact Us page provides contact details of nfshub Ltd at an address in Hoston [sic] Texas, United States.

Neither the <nfhupdate.com> nor <nfhsmmedia.com> disputed domain names presently resolve to an active website. At the time of preparation of the Complainant the <nfhupdate.com> disputed domain name resolved to a nascent website in a similar style to that at “www.nfhsinformer.com” referring to live and on demand events but still comprising pseudo-Latin filler text.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain names are confusingly similar to its NHS NETWORK mark, that the Respondent has no rights or legitimate interests in respect of the disputed domain names, and that the Respondent registered and is using the disputed domain names in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

B. Respondent

The Respondent did not reply to the Complainant’s contentions. On January 23, 2023, the Center received an email from the email address provided by the Registrar as the email contact for the registrant of the disputed domain name <nfhsmmedia.com>, stating: “Hi, what should I do now? Let me know clearly.” The Center responded on January 25, 2023, explaining that a response to the Complaint was due by February 9, 2023, and providing a link to the response filing guidelines on its website. It received a reply stating:

“How do I <https://www.nfhsinformer.com/>
Can I keep <http://nfhsmmedia.com/> running?”

The Center reiterated that the response due date was set at February 9, 2023, providing again the link to the response filing guidelines on its website.

6. Discussion and Findings

6.1 Consolidation

As noted above, the Complaint is filed against multiple respondents. Although paragraph 4(f) of the Policy does envisage multiple disputes between a Complainant and a Respondent being consolidated, neither the Policy nor the Rules provide expressly for the filing of a single Complaint against multiple respondents. However, section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) sets out the basis on which panels have accepted that a single complaint may be filed against multiple respondents. It notes that “panels look at whether: (i) the domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all parties”. Procedural efficiency has also been an important consideration.

In this case, all three disputed domain names comprise “nfhs” and two of them have resolved to very similar websites purporting to offer live stream of high school sports. All three disputed domain names were registered with the same Registrar and all three registrants have given the same street address in Bangladesh, and the same contact telephone number. Furthermore, the second email to the Center from the contact email for <nfhsmmedia.com> indicated that they wished to keep the other two disputed domain names running. In the circumstances, the Panel is satisfied that all the disputed domain names are under common control and that the Complaint may be consolidated.

6.2 Substantive issues

For this Complaint to succeed in relation to the disputed domain names the Complainant must prove that:

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

A. Identical or Confusingly Similar

The Complainant has uncontested rights in its NFHS NETWORK and NFHS marks both by virtue of its trademark registrations and as a result of the goodwill and reputation acquired through its use of the marks over a number of years. Ignoring the generic Top-Level Domain (“gTLD”) “.com”, the disputed domain names all comprise the NFHS mark together variously with the terms “informer”, “media”, and “update”. In the view of the Panel, the addition of these terms does not prevent a finding of confusing similarity between the disputed domain names and the Complainant’s marks.

Accordingly, the Panel finds that all three disputed domain names are confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has made out a strong *prima facie* case that the Respondent could have no rights or legitimate interests in respect of the disputed domain names. The Respondent has used the disputed domain names not in connection with a *bona fide* offering of goods or services, but, in the case of two of the disputed domain names, for websites featuring the Complainant’s NFHS mark and a colourable imitation of the Complainant’s NFHS device mark and purporting to offer live streaming of United States high school American football matches. So far as the third disputed domain name is concerned, its non-use clearly does not represent a *bona fide* offering of goods or services. Moreover, there is no suggestion that the Respondent has ever been known by the disputed domain names (section 2.3 of the [WIPO Overview 3.0](#)) and the Complainant has never given any consent to the use of its marks. The Respondent has chosen not to provide any substantive response to the Complaint or to take any steps to counter the *prima facie* case established by the Complainant.

In the circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the disputed domain names.

C. Registered and Used in Bad Faith

Since the Respondent has used two of the disputed domain names for websites featuring the Complainant’s NFHS mark and purporting to offer the same streaming service as the Complainant’s joint venture, the Panel is in no doubt that the Respondent had the Complainant and its rights in the NFHS marks in mind when it registered the disputed domain names. The Panel considers that the registration and use by the Respondent of domain names comprising the NFHS mark and for websites providing the same service as the Complainant clearly indicates that the Respondent did so with a view to misleading Internet users into believing that the disputed domain names were registered or authorised by the Complainant. The natural inference is that the Respondent did so with a view to commercial gain.

Although there has been no active use of the disputed domain name <nfhsmmedia.com>, as numerous UDRP panels have found, passive holding of a domain name does not necessarily prevent a finding of bad faith for the purposes of the Policy. Considering the common control of the disputed domain names, the lack of any rebuttal by the Respondent of the Complainant’s claims, and the implausible nature of any good faith use

given the acronymic nature of the Complainant's trademark and its direct incorporation in the disputed domain name, the Panel finds that the Respondent's passive holding of the disputed domain name <nfhsmedia.com> does not prevent a finding of bad faith. In the current case, the Panel also considers that the Complainant has justifiable concerns that the Respondent may put the domain name to similar use to that of the disputed domain name <nfhsinformer.com>.

In the Panel's view, the use of domain names for the indicated activity, no doubt with a view to commercial gain, amounts to paradigm bad faith registration and use for the purposes 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 disputed domain names, <nfhsinformer.com>, <nfhsmedia.com>, and <nfhsupdate.com> be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: March 2, 2023