

ADMINISTRATIVE PANEL DECISION

Spokane Hoopfest Association v. Travis Haddock, National Hoopfest Case No. D2023-0785

1. The Parties

Complainant is Spokane Hoopfest Association, United States of America (“United States”), represented by Lee & Hayes, PC, United States.

Respondent is Travis Haddock, National Hoopfest, United States.

2. The Domain Name and Registrar

The disputed domain name <nationalhoop.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 February 22, 2023. On February 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 23, 2023, 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) and contact information in the Complaint. The Center sent an email to Complainant on February 23, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on February 23, 2023.

The Center verified that the Complaint together with the amendment to the 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 February 24, 2023. In accordance with the Rules, paragraph 5, the due date for response was March 16, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 21, 2023.

The Center appointed Robert A. Badgley as the sole panelist in this matter on April 3, 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.

4. Factual Background

According to Complainant, it has hosted and run, in Spokane, Washington “the world’s largest 3-on-3 outdoor basketball tournament” for more than 30 years. Complainant alleges that the tournament is widely known as HOOPFEST. The 2019 HOOPFEST event drew more than 250,000 people, including 24,000 basketball players, from 44 states and six countries. In so doing, Complainant also promotes the city of Spokane as a premier basketball community, known as HOOPTOWN USA.

Annexed to the Complaint are several media articles recognizing the renown of Complainant’s annual HOOPFEST event, including a July 8, 2014 article at “www.si.com” (the online version of *Sports Illustrated*), which refers to HOOPFEST as the “world’s largest 3-on-3 tournament.”

Complainant also sells apparel and other merchandise featuring the HOOPFEST and HOOPTOWN USA marks. Complainant owns the domain names <spokanehoopfest.net> and <hooptownusa.com>, and uses those domain names to host websites promoting the HOOPFEST tournament and the HOOPFEST and HOOPTOWN USA merchandise.

Complainant holds several registered trademarks for HOOPFEST and HOOPTOWN USA with the United States Patent and Trademark Office (“USPTO”), including: USPTO Reg. No. 6,230,220 for HOOPTOWN USA (registered on December 22, 2020 in connection with various forms of apparel, with a June 24, 2019 date of first use in commerce); and USPTO Reg. No. 6,238,326 for HOOPFEST, registered on January 5, 2021 in connection with conducting basketball tournaments (June 1990 first use in commerce), basketballs (June 1993 first use in commerce), and apparel (June 1991 first use in commerce).

Respondent apparently organizes basketball tournaments around the United States. According to Wayback Machine (“www.archive.org”) screenshots annexed to the Complaint, from at least August 20, 2018 to May 8, 2021, Respondent owned the domain name <nationalhoopfest.com> and used that domain name for a website promoting Respondent’s basketball tournaments, held in various cities under the slogan “National Hoopfest.”

Complainant became aware of Respondent and its website in 2020. On June 11, 2020, Complainant sent Respondent a letter asserting its trademark rights in HOOPFEST, and asking to open a discussion to reach a mutually agreeable arrangement that would prevent consumer confusion. Respondent never responded to this letter. As noted above, Respondent continued to use the domain name <nationalhoopfest.com> for nearly a year after this letter, *i.e.*, until May 8, 2021.

The Domain Name was registered on February 20, 2022. The Domain Name resolves to a website which continues to feature the theme “National Hoopfest.” Respondent also uses the term “National Hoopfest” liberally in various leading social media platforms, including Facebook.

On December 6, 2022, Complainant’s counsel sent Respondent a cease-and-desist letter. Respondent did not respond to the letter. The Complaint in this proceeding followed two months later.

Respondent has not denied any of the foregoing allegations.

5. Parties' Contentions

A. Complainant

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

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

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

- (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.

A. Identical or Confusingly Similar

The Panel concludes that Complainant has rights in the trademark HOOPFEST through registration and use demonstrated in the record. The Panel also concludes that the Domain Name is confusingly similar to that mark. The Domain Name incorporates the dominant portion of the mark – HOOP – and replaces in reverse order the term "fest" with the term "national". The dominant portion of the mark remains recognizable within the Domain Name.

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

B. Rights or Legitimate Interests

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 connection with the Domain Name. Respondent has not come forward in this proceeding to articulate or prove any *bona fide* basis for registering the Domain Name.

On this undisputed record, it is obvious that Respondent was aware of the HOOPFEST mark when he registered the Domain Name. If Respondent wasn't aware of that mark at the time he started organizing his own basketball tournaments, he certainly was aware when he received the June 11, 2020 letter from Complainant.

Despite that awareness, Respondent continued to use the earlier domain name <nationalhoopfest.com> for almost another year, and to this day, at the website to which the Domain Name resolves, he uses "National Hoopfest" to market his events.

The Panel does not doubt that Respondent organizes basketball tournaments, but he is doing so using the Domain Name to lead consumers to a website where "National Hoopfest" is featured – the latter term being the Complainant's trademark. Even though Respondent removed the word "fest" from the earlier domain name <nationalhoopfest.com> in the current Domain Name, he still uses the Domain Name to host a website promoting the "National Hoopfest" series of tournaments. That use, in the Panel's view, does not vest Respondent with rights or legitimate interests in respect of the Domain Name.

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

C. Registered and Used in Bad Faith

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 registered and used the Domain Name in bad faith under the Policy. The Panel incorporates its discussion above in the "Rights or Legitimate Interests" section.

As discussed above, on this undisputed record, the Panel finds that Respondent clearly had Complainant's mark in mind when registering the Domain Name. His registration of a Domain Name confusingly similar to Complainant's registered HOOPFEST trademark, and his use of an even more similar term – "National Hoopfest" – at his website, leads to the conclusion that the Domain Name is being used in bad faith within the meaning of the above-quoted Policy paragraph 4(b)(iv).

Further, the Panel notes that Respondent by registering the earlier domain name <nationalhoopfest.com> and the Domain Name – after receipt of a cease-and-desist letter no less – has engaged in a pattern of abusive registrations which is a further indicator of Respondent's bad faith.

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 Name <nationalhoop.com> be transferred to Complainant.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: April 17, 2023