



DECISION

Textron Innovations Inc. v. Mike Brannigan / Dquery.io

Claim Number: FA2404002095240

PARTIES

Complainant is **Textron Innovations Inc.** (“Complainant”), represented by **Jeremiah A. Pastrick**, Indiana, USA. Respondent is **Mike Brannigan / Dquery.io** (“Respondent”), Oregon, USA.

REGISTRAR AND DISPUTED DOMAIN NAMES

The domain names at issue are **<hiobeech.com>** and **<bayareabeech.com>**, registered with **NameCheap, Inc.**

PANEL

The undersigned certifies that they have acted independently and impartially and to the best of their knowledge have no known conflict in serving as Panelist in this proceeding.

Sebastian M W Hughes as Panelist.

PROCEDURAL HISTORY

Complainant submitted a Complaint to FORUM electronically on April 28, 2024; FORUM received payment on April 28, 2024.

On April 29, 2024, NameCheap, Inc. confirmed by e-mail to FORUM that the <hiobeech.com> and <bayareabeech.com> domain names are registered with NameCheap, Inc. and that Respondent is the current registrant of the names. NameCheap, Inc. has verified that Respondent is bound by the NameCheap, Inc. registration agreement and has thereby agreed to resolve domain disputes brought by third parties in accordance with ICANN's Uniform Domain Name Dispute Resolution Policy (the "Policy").

On May 3, 2024, FORUM served the Complaint and all Annexes, including a Written Notice of the Complaint, setting a deadline of May 23, 2024 by which Respondent could file a Response to the Complaint, via e-mail to all entities and persons listed on Respondent's registration as technical, administrative, and billing contacts, and to postmaster@hiobeech.com, postmaster@bayareabeech.com. Also on May 3, 2024, the Written Notice of the Complaint, notifying Respondent of the e-mail addresses served and the deadline for a Response, was transmitted to Respondent via post and fax, to all entities and persons listed on Respondent's registration as technical, administrative and billing contacts.

A timely Response was received and determined to be complete on May 21, 2024.

On May 22, 2024, pursuant to the Parties' requests to have the dispute decided by a single-member Panel, FORUM appointed Sebastian M W Hughes as Panelist.

Having reviewed the communications records, the Administrative Panel (the "Panel") finds that FORUM has discharged its responsibility under Paragraph 2(a) of the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") "to employ reasonably available means calculated to achieve actual notice to Respondent" through submission of Electronic and Written Notices, as defined in Rule 1 and Rule 2.

RELIEF SOUGHT

Complainant requests that the domain names be transferred from Respondent to Complainant.

PARTIES' CONTENTIONS

A. Complainant

Complainant is an affiliate of the multi-industry company Textron Inc. founded in 1923 and listed on the New York Stock Exchange, and the successor-in-title to the Beechcraft Aircraft Company, founded in Wichita, Kansas in 1932.

Complainant is the owner of several registrations for the trademark BEEHCRAFT, including U.S. Trademark Registration No. 759556 issued on November 5, 1963 (the "Trademark").

The disputed domain names are confusingly similar to the Trademark.

The disputed domain names resolve to the same website, used by Respondent to sell pre-purchase inspection, flight training and relocation services relating to Complainant's Beechcraft aircraft. The website uses the Beechcraft name and features imagery of Complainant's Beechcraft aircraft (the "Website").

Respondent uses the disputed domain names to illegitimately divert web traffic to the Website and capitalize upon the value of the Beechcraft name and brand.

Respondent has no rights or legitimate interests in the disputed domain names.

Respondent is using the disputed domain name in respect of the Website to capitalize on the confusion that consumers will likely have when navigating to the Website and unfairly profit from such illegitimate and unauthorized use of the disputed domain names.

Respondent has both registered and is using the disputed domain names in bad faith (1) to intentionally disrupt the business of Complainant; and (2) to intentionally attract, for commercial gain, Internet users to the Website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the Website.

Complainant relies also on past decisions under the Policy where bad faith has been found on the basis of respondents using confusingly similar domain names to compete with a complainant.

B. Respondent

Respondent is an FAA-Certified Flight Instructor and, since 2012, an authorized American Bonanza Society Instructor under its "Beech Pilot Proficiency Program".

Respondent uses the disputed domain names to promote his business of providing (1) pre-purchase inspections for purchasers of second hand Beechcraft aircraft; (2) flight training services for Beechcraft aircraft; and (3) relocation services for Beechcraft aircraft.

Respondent does not sell any of Complainant's aircraft on the Website, which features a prominent disclaimer, and any visitor to the Website in search of Complainant's products would not be confused.

Respondent does not compete with Complainant. His customers are already customers of Complainant and in need of FAA services not provided by Complainant, in respect of Complainant's aircraft.

The disputed domain names are not confusingly similar to the Trademark as, amongst other reasons, the Trademark comprises the common word "beech", being the name of a well-known tree.

Respondent has rights and legitimate interests in the disputed domain names, which he has used in respect of the Website without complaint, and he has not made any use of the disputed domain names which might amount to bad faith use under each of the sub-paragraphs of paragraphs 4(b) of the Policy, or otherwise.

Respondent requests that the Panel make a finding of RDNH (Reverse Domain Name Hijacking).

FINDINGS

Complainant has not established all the elements entitling it to transfer of the disputed domain names.

DISCUSSION

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy requires that Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (1) the domain name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (2) Respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered and is being used in bad faith.

Identical and/or Confusingly Similar

The disputed domain names are confusingly similar to the Trade Mark. They each contain a dominant feature of the Trade Mark – namely the word “beech”. They have also been used in respect of the Website, containing the Beechcraft name and imagery of Beechcraft aircraft, which increases the likelihood of confusion.

Rights or Legitimate Interests

The disputed domain names were registered on June 19, 2010 and September 21, 2021, respectively.

Respondent does not use the Website to offer for sale or sell Complainant’s goods under the Trademark.

Further, the Website contains the following prominent disclaimer:

“Hillsboro Beech and Bay Area Beech are not affiliated with Textron, its subsidiaries or affiliates.

Beechcraft, Baron, Bonanza are presumably registered trademarks of Textron or the Beechcraft Corporation.

Bay Area Beech claims no trademarks of our own. We just teach, fly and inspect the darn things.”

Respondent’s use of the disputed domain names clearly meets the established *Oki Data* test:

1. He uses the site to provide services related only to Complainant’s trademarked goods and no other aircraft;
2. The Website accurately discloses that Respondent has no relationship with Complainant; and
3. He is not trying to corner the market in domain names relating to the Trademark.

Registration and Use in Bad Faith

In light of the Panel’s finding under the second limb of paragraph 4(a) of the Policy above, it is not strictly necessary for the Panel to make any finding in respect of the third limb. Nonetheless, for the record, the Panel finds that the disputed domain names have not been registered and used in bad faith.

The evidence demonstrates that Respondent has not used the disputed domain names to compete with Complainant, to disrupt the business of Complainant, or to illegitimately capitalize on any consumer confusion.

To the contrary, there is no evidence of any consumer confusion, and the evidence suggest that, if anything, Respondent's use of the disputed domain names is complementary to (and complimentary of) Complainant and its Beechcraft brand.

RDNH

Complainant is legally represented and accordingly ought to be held to a higher standard.

Respondent has used the disputed domain names in respect of the Website for several years without complaint.

Complainant did not furnish any evidence of consumer confusion.

In light of the facts of this case, including in particular the prominent disclaimer on the Website, Complainant ought to have appreciated that it would be unable to establish both the second and third limbs under paragraph 4(a) of the Policy in this proceeding.

DECISION

Having not established all three elements required under the ICANN Policy, the Panel concludes that relief shall be **DENIED**.

Accordingly, it is Ordered that the <hiobeech.com> and <bayareabeech.com> domain names **REMAIN WITH** Respondent.

Moreover, the Panel finds that the Complaint has been brought in bad faith and constitutes an attempt at Reverse Domain Name Hijacking.



Sebastian Hughes
Panelist

Sebastian M W Hughes, Panelist

Dated: June 2, 2024