



NATIONAL ARBITRATION FORUM

DECISION

State Farm Mutual Automobile Insurance Company v. Mahalo c/o Elliot Cook
Claim Number: FA1004001317317

PARTIES

Complainant is **State Farm Mutual Automobile Insurance Company** (“Complainant”), represented by **Debra J. Monke**, of **State Farm Mutual Automobile Insurance Company**, Illinois, USA. Respondent is **Mahalo c/o Elliot Cook** (“Respondent”), California, USA.

REGISTRAR AND DISPUTED DOMAIN NAMES

The domain names at issue are <**statefarmanswers.com**> and <**statefarmquestions.com**>, registered with **Godaddy.com, Inc.**

PANEL

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

Judge Nelson A. Diaz, Houston Putnam Lowry, Esq. and Debrett G. Lyons (chair) as Panelists.

PROCEDURAL HISTORY

Complainant submitted a Complaint to the National Arbitration Forum electronically on April 5, 2010.

On April 5, 2010, Godaddy.com, Inc. confirmed by e-mail to the National Arbitration Forum that the <**statefarmanswers.com**> and <**statefarmquestions.com**> domain names are registered with Godaddy.com, Inc. and that the Respondent is the current registrant of the name. Godaddy.com, Inc. has verified that Respondent is bound by the Godaddy.com, Inc. registration agreement and has thereby agreed to resolve domain-name disputes brought by third parties in accordance with ICANN’s Uniform Domain Name Dispute Resolution Policy (the “Policy”).

On April 7, 2010, the Forum served the Complaint and all Annexes, including a Written Notice of the Complaint, setting a deadline of April 27, 2010 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@statefarmanswers.com and postmaster@statefarmquestions.com. Also on April 7, 2010, the Written Notice of the Complaint, notifying Respondent of the email 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 on April 26, 2010. Respondent's Response was received without the annexes separated from the Response and so the FORUM deemed the Response deficient according to ICANN Rule 5(a). On April 30, 2010 Complainant made Additional Submissions which were in conformity with the ICANN Rules. On May 3, 2010 Respondent wrote to the Forum offering to transfer the disputed domain names to Complainant.

On May 5, 2010, pursuant to Respondent's request to have the dispute decided by a three-member Panel, the National Arbitration Forum appointed Judge Nelson A. Diaz, Houston Putnam Lowry, Esq. and Debrett G. Lyons as Panelists.

RELIEF SOUGHT

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

PARTIES' CONTENTIONS

A. Complainant

Complainant asserts trademark rights and alleges that the disputed domain names are confusingly similar to the trademark.

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

Complainant alleges that Respondent registered and is using the disputed domain names in bad faith.

B. Respondent

Respondent broadly denies Complainant's allegations in a Response which was adjudged by the Forum not to be in compliance with ICANN Rule 5(a). However for reasons which follow it is unnecessary for the Panel to decide whether or not to exercise its discretion to consider the Response.

C. Additional Submissions

Both parties made Additional Submissions. For reasons which follow it is not necessary to summarize Complainant's Additional Submissions.

Respondent wrote to the Forum on May 3, 2010 stating: *Mahalo wishes to resolve the matter by transferring statefarmanswers.com & statefarmquestions.com to the complainant.*

FINDINGS

Preliminary Procedural Issue

A preliminary issue arises as to whether the Panel should decide this case under the Policy given that Respondent wishes to resolve the dispute by transferring the disputed domain names to Complainant.

So, for example, in the case of *Disney Enterprises, Inc. v. Morales*, FA 475191 (Nat. Arb. Forum June 24, 2005), it was said that “where Respondent has agreed to comply with Complainant’s request [to transfer the domain name], the Panel felt it to be expedient and judicial to forego the traditional UDRP analysis and order the transfer of the domain names.”

By way of contrast, in the case of *State Farm Mutual Automobile Insurance Co. v. Richard Pompilio*, FA 1092410 (Nat. Arb. Forum Nov. 20, 2007), it was common ground between the parties that, prior to the filing of the complaint, respondent had offered to transfer the disputed domain name to complainant and complainant had accepted that offer. Nonetheless, complainant had taken a decision to press forward and file the complaint. Respondent in that case then wrote to the Forum stating in a letter that it “agreed with the complaint and agreed to release the Domain name.” That post-complaint correspondence was copied to complainant, but complainant did nothing to indicate whether it wished to abandon the complaint or not. In those circumstances, the panel there drew the inference that the complaint was maintained and so went on to decide the dispute under the terms of the Policy.

This Panel finds that it is the clear intention of the Respondent that the disputed domain names be immediately transferred from Respondent to Complainant. For that reason, it considers that it there is no imperative to apply the Policy.

DECISION

It is Ordered that the <**statefarmanswers.com**> and <**statefarmquestions.com**> domain names be **TRANSFERRED** from Respondent to Complainant.



Debrett Gordon Lyons, Esq.
Arbitrator

Debrett G. Lyons

Judge Nelson A. Diaz

Houston Putnam Lowry, Esq.

Panelists

Dated: May 12, 2010

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