

**IN THE MATTER OF A COMPLAINT PURSUANT TO
THE CANADIAN INTERNET REGISTRATION AUTHORITY (“CIRA”)
DOMAIN NAME DISPUTE RESOLUTION POLICY (“POLICY”) AND
DOMAIN NAME DISPUTE RESOLUTION RULES (“RESOLUTION RULES”)**

Complainant:	Zuffa, LLC
Complainant’s Representative:	Carol Anne O’Brien Barrister & Solicitor Toronto ON
Disputed Domain Name:	ufc.ca
Registrant:	Daniel Cox Calgary AB
Registrar:	Namespro Solutions Inc.
Panel:	Denis Magnusson (sole panellist)
Service Provider:	Resolution Canada

DECISION

Parties

The Complainant is Zuffa, LLC, a Nevada limited liability company with its principal place of business in Las Vegas, Nevada, USA.

The Registrant is Daniel Cox of Calgary, Alberta.

Disputed Domain Name and Registrar

The disputed domain name is ufc.ca, registered by Daniel Cox on July 4, 2007. The Registrar is Namespro Solutions Inc.

The Complainant

The Complainant is Zuffa, LLC a limited liability company incorporated under Nevada law with a principal place of business in Las Vegas, Nevada, USA. The Complaint describes the Complainant as

“the leading world-wide producer and promoter of mixed-martial arts events. Zuffa produces television programs that are based on these events for broadcast and, through authorized licensees, distributes a wide range of UFC-branded products world-wide, including in Canada.”

The Complaint states that the Complainant has been using its “UFC” mark in association with its products in Canada since at least as early as 1993. It applied for registration of “UFC” as a trademark in the CIPO in 2002 which mark was registered in 2005. The Complaint also notes that it began using two design marks incorporating “UFC” in Canada as early as 2001 which marks were registered in the CIPO as trademarks in 2005.

Eligible Complainant

Policy 1.4 provides that a Complainant may submit a Complaint which relates to a trade-mark registered in the Canadian Intellectual Property Office (“CIPO”) of which the Complainant is the owner. The Complainant relies on the trademark “UFC” registered in the CIPO in August, 2005 by the Complainant Zuffa, LLC and of which the Complainant is the present registered owner.

The Registrant

The Registrant is Daniel Cox, a resident of Calgary Alberta. As noted above, the Registrant registered the disputed domain name ufc.ca on July 4, 2007

At the time of the Complaint the Registrant was using the registered domain name ufc.ca to resolve to a site headed “Ultimate Fan Center”. First under that title was a link “UFC 124 Fight Card” which linked to another site at TicketsCanada.com further described as having “the most up to date UFC 124 Fight Card online”. “UFC 124” refers to a mixed martial arts match staged in Montreal by the Complainant on December 11, 2010.

Procedural History

This dispute proceeds on the basis that the Registrant has filed no Response.

From the record of interaction between the Registrant and the Provider the Panel infers that the Registrant might protest that he attempted to file a Response but was ultimately unable to do so because of what he saw as the unreasonable demands he faced under the Policy and Resolution Rules. In these circumstances the Panel, somewhat unusually, canvases the interaction between the Provider and Registrant leading up to the no Response outcome. While some of the facts will not previously have been disclosed to the Complainant, the Panel believes that this review of the procedural background does not unfairly prejudice the Complainant as the substance of the dispute is considered and decided solely on the basis that no Response has been filed as required under the Policy.

Sometime prior to October 31, 2010 the Complainant discovered that the disputed domain name had been registered by another person which domain name was being used in association with a web site containing material which overlapped the Complainant’s field of business.

The name of the domain name Registrant was not discoverable on a Whois search. This reflected CIRA privacy policy under which the names and contact information for Registrants of dot-ca domain names who are individuals are not disclosed on Whois or otherwise by CIRA. This is the default position, though Registrants can opt to have their names and other identifying information disclosed, which it appears this Registrant did not opt to do.

The Complainant used the CIRA’s message delivery service which enables a communication to be sent to a Registrant whose identity is undisclosed. The Registrant replied disclosing his identity to the Complainant. A further exchange occurred between Complainant and Registrant (considered further below) which did not conclude to the Complainant’s satisfaction.

The Complainant then filed this Complaint with the Provider, Resolution Canada, which found the Complaint in compliance with the Resolution Rules.

As the identity of the Registrant was not disclosed the Provider requested the disclosure of the name, postal address and email address of the Registrant from CIRA on November 5, 2010 for the purpose of proceeding with the Complaint. The Provider received such notification on November 8, 2010 and on that date the Provider forwarded notice of the Complaint to the Registrant at the disclosed email address together with attached electronic copies of the Complaint with its schedules. This notice stated that hard copies of this material would be delivered by courier to the disclosed postal address. The formal Notice of Complaint stated further :

In accordance with CIRA Dispute Resolution Rule 5.1, you have twenty (20) days from the Date of Commencement of the Proceeding on November 8, 2010 to file five (5) copies of a Response to the Complaint with Resolution Canada Inc. in accordance with the CIRA Policy and Resolution Rules.

On or before November 11, 2010 the Provider received a reply from the Registrant by email which is reproduced in its entirety here:

Hello, Here is my response. Please confirm copies

ufc

In response to a misterious and deceptive email I recieved about my domain decided to take down the site right away until we clear this trade mark issue up. The complainant shows I own some mis-types of brand name domains and yes i do own some. I use domain drop software that grabs expiring domains with traffic and the software logs these names for registration. She did not mention that I also own many generic domains like cuba.net trucks.net primeminister.com toys.net and many more. I also own over 300 3 letter .ca domains. 3 letter domains have always been generic and safe to regisister. There could be thousands of legitimate companies that have the same 3 letter combination in there name. United Farmers Coop is just one that has the same letters.

Now in 2005 or so when zuffa was using a terrible long domain with a dash in it like ufc-fighting.com or whatever it was, there was talk in the domain name forums that zuffa paid a lot of money for ufc.com I guess they understood it didn't belong to tham and they bought it.

And then there is ufc.org which was up for sale at sedo.com and ufc.net I would like to ask zuffa why they haven't taken these domains to WIPO? I think. we know why, and the answer is they would lose. This is nothing more than reverse domain high jacking.

I ask this board to consider all that facts regarding generic 3 letter domains and award me to keep my domain.

On November 11, 2010 the Provider replied by email that on review “the Response you filed . . . is not in administrative compliance with the Policy and Resolution Rules.”¹ This reply went on to draw the Registrant’s attention to attached links to CIRA Domain Name Dispute Resolution Rules (link included) and CIRA Domain Name Dispute Resolution Policy (link included).

This reply further requested that the Registrant provide the information required for a Response as per Paragraph 5 of the Rules, and specifically for “the signed Certificate of the Registrant, which is Appendix B of the Rules” by the deadline, November 28, 2010.

¹ The Provider was acting pursuant to Rules **5.6 Deficient Response**: “If the Provider is not satisfied that: (b) the Response is otherwise in administrative compliance with the Policy and the Resolution Rules; . . .the Provider shall give notice to the Registrant . . . of the nature of all instances of non-compliance. “

On November 12, 2010 the Registrant sent a short email reply to the Provider which began with “so I just copy my little response 5 times and send you all 5? if I don’t get it all correct you will just hand over my domain? nice ...” This reply went on to refer to refer to an earlier dispute over a dot-com domain before WIPO, noted that the Registrant refused to hire a lawyer for such arbitration disputes, and noted that the Registrant was on vacation in the Philippines which created problems meeting deadlines.

On November 16, 2010 the Registrant sent the Provider a very short email which began “still no reply or help?” and concluded with an allegation of Provider bias.

That same day the Provider responded with an email noting the Provider’s earlier reply on November 11.

The next day, November 17, 2010 the Registrant sent an email protesting that the earlier reply was not responsive to the Registrant’s issues with the process, and asking why his first reply did not constitute a Response, and why the Registrant had to submit 5 hard copies of its response. This same email also complained about unreasonable time deadlines, and about the legalese of the Policy and Rules with which the Registrant had difficulty.

That same day the Provider responded by email. This reply noted the role of the Provider under the CIRA Policy and Rules, observing that in this role the Provider had to conform to the Policy and Rules. This reply noted that links to the Policy and Rules had been provided in earlier communication. The reply concluded by restating that the original email sent by the Registrant on November 11 could not be accepted by the Provider as a Response complying with the Rules, and stating that “hard copy” is a printed copy, and the requirement for 5 hard copies came from Rules, Paragraph 5.3.

Later that same day, November 17, 2010, the Registrant sent an email to the Provider asking for an extension of time to file a Response because he was on vacation and because he believed he “wasn’t given the full 20 days”.

The next day, November 18, 2010, the Provider responded by email that extensions of time to file a Response “can only be granted under exceptional circumstances” and that the Provider did not consider the circumstances the Registrant had pointed to as meeting this requirement and thus the request for an extension was denied.²

On November 21, 2010 the Registrant replied, protesting his perceived unfairness of the denial of the extension.

² The Provider was making this decision under the constraints of the Rules, in particular, paragraph 1.3: “**Time.** Unless otherwise expressly provided in the Resolution Rules or by a Panel, the time limits set out in the Resolution Rules or in an order of the Panel are mandatory” and paragraph 5.4: “**Extension of Time:** At the written request of the Registrant and made before the Response is due to be submitted the Provider may, in exceptional cases, extend the period of time for the filing of the Response . . . The Provider may exercise its discretion in determining whether there are such exceptional circumstances which warrant an extension . . .” [Emphases added].

November 28, 2010, the deadline for receipt of a Response, elapsed with no further communication.

Under Resolution Rules 6.5, no Response conforming to the requirements of the Resolution Rules having been received within the deadline, the Complainant had the option of having the dispute decided by a single member Panel rather than a three member panel. The Complainant chose the single member Panel option.

The Provider appointed the undersigned, Denis Magnusson, as the sole Panellist to decide this dispute.

Relief Requested

The Complainant requested that the Panel order that ownership of the domain name be transferred from the Registrant to the Complainant.

Procedural History Considered

The Registrant's initial reply to the standard Notice of Complaint and accompanying Complaint sent to him by the Provider described that communication as "mysterious and deceptive".

As a condition of being able to register its dot-ca domain name, the Registrant agreed to be bound by the terms of the CIRA Registrant Agreement ["Agreement"], Article 1.1 of which provides that "[t]his Agreement between the Registrant and CIRA applies to all Domain Names registered by CIRA for the Registrant [that is, all dot-ca domain names]." The Agreement, in Article 2.1, further provides:

. . . The Registrant acknowledges that it has read, understood, and agrees to be bound by all the terms and conditions of this Agreement . . . which CIRA may establish and amend from time to time.

The Agreement requires the Registrant to submit to the CIRA Domain Name Dispute Resolution Policy, under which this proceeding is held. Article 7.3 of the Agreement provides:

" . . . CIRA may also, in its sole discretion and at its sole option, upon notice to the Registrant suspend and/or delete a Domain Name Registration in the event . . . that:

. . .
 g) the deletion, transfer or suspension of a Domain Name Registration is required by an order or decision under CIRA's Domain Name Dispute Resolution Policy

The CIRA Domain Name Dispute Resolution Policy ["Policy"] itself provides in paragraph 3.1:

Applicable Disputes. A Registrant must submit to a Proceeding if a Complainant asserts in a Complaint submitted in compliance with the Policy and the Resolution Rules that (there follows three necessary assertions all of which were made by the Complainant in this Complaint as required) [emphasis added]

Policy paragraph 1.3 further provides: "Rules. A dispute resolution proceeding initiated under the Policy (a "Proceeding") is also subject to the CIRA Dispute Resolution Rules (the "Resolution Rules")."

In the exchanges with the Provider the Registrant's objections appear to have been to the requirement that he comply with the Policy and Resolution Rules with which he had agreed to comply as a condition of his being able to register a dot-ca domain name. In this regard the Registrant complained that he did not get sufficient "help" from the Provider. The Provider, as

