

CANADIAN INTERNET REGISTRATION AUTHORITY

DOMAIN NAME DISPUTE RESOLUTION POLICY

COMPLAINT

Dispute Number: DCA-1770-CIRA
Domain Name: squamishvalleymusicfestival.ca
Complainant: Live at Squamish Limited Partnership
Registrant: Douglas R. Day
Panel: Elizabeth Cuddihy
Service Provider: British Columbia International Commercial Arbitration Centre

DECISION

The Parties

1. The Complainant is Live at Squamish Limited Partnership of 100 – 10760 Shellbridge Way, Richmond, British Columbia V6X 3H1, (the Complainant).
2. The Registrant is Douglas R. Day of 40850 Tantalus Road, Squamish, BC V8B 0L5, Canada, (the Registrant).

The Disputed Domain Name and Registrar

3. The Domain Name at issue is squamishvalleymusicfestival.ca, (the Disputed Domain Name).
4. The Registrar for the Disputed Domain Name is Webnames.ca Inc.
5. The Disputed Domain Name was registered on October 31, 2013.

Procedural History

6. The British Columbia International Commercial Arbitration Centre, (BCICAC) is a recognized service provider to the Domain Name Dispute Resolution Policy, (the Policy) and Rules, (the Rules) of the Canadian Internet Registration Authority, (CIRA).
7. The Complainant filed a complaint dated April 15, 2016, (the Complaint) with the BCICAC seeking an order in accordance with the Policy and the Rules that the Disputed Domain Name be transferred to the Complainant.

8. By letter dated April 15, 2016, BCICAC confirmed the Complaint to be in administrative compliance with the requirement of the Rules and the commencement of the dispute resolution process and forwarded copy of the Complaint to the Registrant in accordance with the Rules.
9. The Registrant did not provide a Response.
10. As permitted in the absence of a Response, the Complainant elected under Rule 6.5 to convert to a single arbitrator. On May 9, 2016, BCICAC appointed Elizabeth Cuddihy as Sole Panelist to determine the dispute, (the Panel).
11. As prescribed by the Policy, the Panel has declared that it can act impartially and independently and that there are no circumstances known to the Panel which would prevent it from so doing.
12. Following the appointment of the Panel, the Registrant applied for an extension of time to file a Response for the reason set forth in the request, which request was reviewed by the Panel. On May 16, 2016, the Panel issued an Interim Order dismissing the request for the reasons stated therein and filed the Interim Order with the Service Provider requesting on that day that the Service Provider communicate same to the parties.
13. As there was no Response to the Complaint, the Panel shall in accordance with Rule 5.8 decide the Proceeding on the basis of the Complaint.

Canadian Presence Requirements

14. In order for a Registrant to be permitted to apply for registration of, and to hold and maintain the registration of a dot ca domain name, the Canadian Presence Requirements for Registrants, (the Presence Requirements) require that the applicant meet at least one of the criteria listed as establishing a Canadian presence.
15. The Complainant is the owner of Canadian Trade-mark registration for SQUAMISH VALLEY MUSIC FESTIVAL registered in the Canadian Intellectual Property Office, (CIPO) on March 1, 2016 as registration Number TMA930275, (the Complainant's Mark).
16. As evidenced by summary from the British Columbia Registry Services, the Complainant is a British Columbia limited partnership. Its general and limited partners are both incorporated in British Columbia, Canada.
17. Accordingly, as the Complaint relates to a Disputed Domain Name, which includes the exact word component of a Mark registered in CIPO and owned by the Complainant, and the

Complainant is a Canadian limited partnership whose general and limited partners are both Canadian corporations, the Presence Requirements are satisfied.

The Position of the Parties

The Position of the Complainant

18. Brand.Live Management Group Inc., (Brand.Live), the parent company of Brand.Live Promotions Inc., (B.L. Promotions) provides management services to and acts as general partner of the Complainant and has the rights to use the Complainant's property including the Complainant's Mark. Brand.Live has co-produced a contemporary music festival in Squamish, British Columbia, Canada, which was operated under the name "LIVE at Squamish" between 2010 and 2012 and operated as the "Squamish Valley Music Festival" from November 2012 to March 2016, (the Festival).

19. The Festival is a multiple-day, annual music festival which, except for the coming summer, usually occurs during the second weekend in August. Widely recognized as the largest contemporary music festival in the Pacific Northwest, it has featured some of the biggest international names in the music industry. Attendance increased rapidly over the 6 year past history of operations with in excess of 118,000 people attending in 2015 to see performers on four stages. The 2014 line-up included over 70 artist, the 2015 line-up included over 80 artists with headliners Eminem, Arcade Fire and Bruno Mars in 2014, Munford & Sons, Drake and Sam Smith in 2015.

20. The Complainant's Mark was first used by Brand.Live in association with the Festival commencing in November 2012, in association with the Festival camping on or about March 1, 2013, in general advertising for the 2013 Festival on or about March 1, 2013 and in association with promotional wares bearing the Complainant's Mark on, or about August 8, 2013. Since at least March 2013, the Complainant and Brand.Live have adopted and continue to use the Complainant's Mark in association with the Festival, Festival camping and each of their businesses, services and wares throughout the world.

21. The Complainant submits that, although it only filed application to register the Complainant's Mark on November 20, 2013, the application was based on the use of the Complainant's trade-marks as noted in paragraph 20 above. On that basis, the Complainant's Mark was registered in CIPO on March 1, 2016. By virtue of its lengthy and extensive use of the trade- mark dating back to November 2012, the Complainant owned common law rights to the trade-mark well before the registration of the Disputed Domain Name on October 31, 2013. The Disputed Domain Name incorporates the entire word mark of the Complainant's Mark and is confusingly similar to the Complainant's Mark.

22. The Complainant submits that the Registrant registered the Disputed Domain Name in bad faith because he registered the Disputed Domain Name primarily for the purpose of disrupting the business of the Complainant, who is a direct competitor of the Complainant. In addition the Disputed Domain Name was registered in bad faith by the Registrant because it was registered in order to prevent the Complainant from registering it, and has, since 2013 not activated a webpage at the Disputed Domain Name.

23. The Complainant became aware of the registration of the Disputed Domain Name, on or about November 6, 2013, when the Registrant by e-mail wrote to a representative of Brand.Live regarding two domain names that the Registrant had registered, both of which related to Festival camping. Shortly thereafter, the Registrant contacted the same Brand.Live representative informing him that the Registrant had also registered the Disputed Domain Name and also <www.squamishvalleymusicfestival.com>. At the time, the Disputed Domain Name linked to a place-holder website, with no content other than to state that the "website is under development" and to "check back soon for further updates". There was no indication on the website that it was either associated to, connected with, authorized or approved by the Complainant or Brand.Live.

24. In response to the Registrant's communications, on or about November 22, 2013, the Complainant, through its solicitors, wrote to the Registrant outlining, *inter alia*, the Complainant's rights in the Complainant's Mark and requesting *inter alia*, that the Registrant cease and desist from any and all use of the Complainant's Mark and demanded an immediate transfer of the Disputed Domain Name to the Complainant as well as the three other domain names that included the Complainant's Mark. No agreement on transfer was reached.

25. On or about March 7, 2016, following the announcement of the cancellation of the 2016 Squamish Valley Music Festival, the Registrant, wrote Brand.Live, confirming the Registrant's ownership of the Disputed Domain Name and stating the he had "*not promoted the use of this web name nor has it ever been activated for public viewing*" and sought agreement from Brand.Live, that it abandon its (the Complainant's) interest in the Disputed Domain Name, allow the Registrant to activate a web site under the Disputed Domain Name and that he "*also might be interested in running a smaller version of the Squamish Valley Music Festival as a temporary use on my Garibaldi Springs Golf lands*".

26. In response, on or about March 18, 2016, the Complainant, through its solicitors, wrote the Registrant outlining to the Registrant its unauthorized infringement of the Complainant's Mark, requesting that he cease and desist from any and all use of the infringing domain names and any other domain name that incorporates or is confusingly similar to the Complainant's Mark and further requesting the transfer of all the infringing domain names including the Disputed Domain Name. The Registrant has not cooperated in the Complainant's efforts to protect its intellectual property rights nor has he agreed to transfer the Disputed Domain Name to the Complainant. The Disputed Domain Name

currently resolves to a webpage that states that the "website is under development" and to "check back soon for further updates".

27. The Complainant submits that the Disputed Domain Name is confusingly similar to the Complainant's Mark, in which the Complainant had rights prior to the registration of the Disputed Domain Name and continues to have such rights, and further that the Registrant has no legitimate interest in the Disputed Domain Name and that the Disputed Domain Name was registered in bad faith.

28. Accordingly the Complainant request that the Disputed Domain Name be transferred to the Complainant forthwith.

The Position of the Registrant

29. The Registrant did not file a Response.

Analysis and Findings

30. The purpose of the Policy as stated in paragraph 1.1 is to provide a forum by which cases of bad faith registration of dot-ca domain names can be dealt with relatively inexpensively and quickly. The Policy does not apply to other types of differences between owners of trade-marks and Registrants of Domain names.

Relevant provisions of the Policy are provided below

31. Paragraph 4.1 of the Policy provides:

4.1 Onus. To succeed in a Proceeding, the Complainant must prove, on a balance of probabilities, that:

(a) the Registrant's dot-ca domain name is Confusingly Similar to a Mark in which the Complainant had Rights prior to the date of registration of the domain name and continues to have such Rights; and

(b) the Registrant has registered the domain name in bad faith as described in paragraph 3.5; and the Complainant must provide some evidence that:

(c) the Registrant has no legitimate interest in the domain name as described in paragraph 3.4. Even if the Complainant proves (a) and (b) and provides some evidence of (c), the Registrant will succeed in the Proceeding if the Registrant proves, on a balance of probabilities, that the Registrant has a legitimate interest in the domain name as described in paragraph 3.4.

32. Paragraph 3.2 of the Policy provides in part:

3.2 Mark. A "Mark" is

(a) A trade-mark, including the word elements of a design mark, or a trade name that has been used in Canada by a person, or the person's predecessor in title, for the purpose of distinguishing the wares, services or business of that person or predecessor or a licensor of that person or predecessor from the wares, services or business of another person;

- (b) a certification mark, including the word elements of a design mark, that has been used in Canada by a person or that person's predecessor in title, for the purpose of distinguishing wares or services that are of a defined standard;
- (c) a trade-mark, including the word elements of a design mark, that is registered in CIPO; or
- (d) the alphanumeric and punctuation elements of any badge, crest, emblem or mark in respect of which the Registrar of Trade-marks has given public notice of adoption and use pursuant to paragraph 9(1)(n) of the *Trade-marks Act* (Canada).

33. Paragraph 3.3 provides:

- **3.3 Confusingly Similar.** In determining whether a domain name is "Confusingly Similar" to a Mark, the Panel shall only consider whether the domain name so nearly resembles the Mark in appearance, sound or the ideas suggested by the Mark as to be likely to be mistaken for the Mark.

34. Paragraph 3.4 provides:

3.4 Legitimate Interest: For the purposes of paragraphs 3.1(b) and 4.1(c), any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all the evidence presented, shall demonstrate that the Registrant has a legitimate interest in the domain name:

- (a) the domain name was a Mark, the Registrant used the Mark in good faith and the Registrant had Rights in the Mark;
- (b) the Registrant registered the domain name in Canada in good faith in association with any wares, services or business and the domain name was clearly descriptive in Canada in the English or French language of: (i) the character or quality of the wares, services or business; (ii) the conditions of, or the persons employed in, production of the wares, performance of the services or operation of the business; or (iii) the place of origin of the wares, services or business;
- (c) the Registrant registered the domain name in Canada in good faith in association with any wares, services or business and the domain name was understood in Canada to be the generic name thereof in any language;
- (d) the Registrant used the domain name in Canada in good faith in association with a non-commercial activity including, without limitation, criticism, review or news reporting;
- (e) the domain name comprised the legal name of the Registrant or was a name, surname or other reference by which the Registrant was commonly identified; or
- (f) the domain name was the geographical name of the location of the Registrant's non-commercial activity or place of business.

In paragraph 3.4(d) "use" by the Registrants includes, but is not limited to, use to identify a web site.

35. Paragraph 3.5 provides:

3.5 Registration in Bad Faith. For the purposes of paragraph 3.1(c) and 4.1(b), any of the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence that a Registrant has registered a domain name in bad faith:

- (a) the Registrant registered the domain name, or acquired the Registration, primarily for the purpose of selling, renting, licensing or otherwise transferring the Registration to the Complainant, or the Complainant's licensor or licensee of the Mark, or to a competitor of the Complainant or the licensee or licensor for valuable consideration in excess of the Registrant's actual costs in registering the domain name or acquiring the Registration;
- (b) the Registrant registered the domain name or acquired the Registration in order to prevent the Complainant, or the Complainant's licensor or licensee of the Mark, from registering the Mark as a domain name, provided that the Registrant, alone or in concert with one or more

additional persons has engaged in a pattern of registering domain names in order to prevent persons who have Rights in Marks from registering the Marks as domain names;
(c) the Registrant registered the domain name or acquired the Registration primarily for the purpose of disrupting the business of the Complainant, or the Complainant's licensor or licensee of the Mark, who is a competitor of the Registrant; or
(d) the Registrant has intentionally attempted to attract, for commercial gain, Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's Mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location.

36. In summary, to succeed in a proceeding, the Complainant must prove on a balance of probabilities that:

1. The dot-ca domain name is confusingly similar to a Mark in which the Complainant had Rights prior to the registration of the domain name and continues to have such Rights;
2. The Registrant has registered the domain name in bad faith; and
3. The Complainant must provide some evidence that the Registrant has no legitimate interest in the domain name.

Notwithstanding the above, the Registrant will succeed if the Registrant proves on a balance of probabilities that he has a legitimate interest in the domain name.

Confusingly Similar to a Mark

37. Evidence shows that the Complainant is the owner of the Complainant's Mark, and is registered in CIPA as No. TMA930275, on March 1, 2016.

38. In accordance with Paragraph 3.3 of the Policy, a domain name is confusingly similar to a Mark if the domain name so nearly resembles the Mark in appearance, sound or the ideas suggested by the Mark as to be likely mistaken for the Mark. In assessing the domain name, the dot-ca suffix is ignored. It is the narrow resemblance that is applied.

39. Ignoring the dot-ca suffix, the Disputed Domain Name incorporates the entire word mark SQUAMISH VALLEY MUSIC FESTIVAL, the Complainant's Mark.

40. It is a well-established principle that a domain name that wholly incorporates a Mark will be found to be confusingly similar to the Mark. Accordingly for the reasons noted above, the Disputed Domain Name is confusingly similar to the Complainant's Mark.

Rights in the Mark prior to the Disputed Domain Name registration and continuing Rights

41. The Registrant registered the Disputed Domain Name on October 31, 2013. The date of the registration of the Complainant's Mark owned by the Complainant in CIPO is

March 1, 2016. The Complainant's application for registration of the mark was based on use of the mark since as early as November 2012.

42. As early as November 2012, and prior to the registration of the Complainant's Mark in CIPO, the Complainant used the trade-mark (which is the exact wording of the Complainant's Mark as registered in CIPO) in association with the Festival. Since at least March 2013, the Complainant and Brand.Live have adopted and extensively used the Complainant's Mark in association with the Festival, Festival camping and each of their business, services and wares throughout the world.

43. The Complainant's Mark is well-known in view of the notoriety of the Festival in Squamish, British Columbia. The Festival was nominated in both 2014 and 2015 as "Best International Festival" at the UK Festival Awards.

44. Since the 2011 revision of the Policy, the Policy no longer contains a definition of "Rights" as it is used in Paragraph 3.1(a) of the Policy. This definition was removed from the Policy as it had created overly technical and complex requirements in terms of what rights qualify for protection. This change brings the Policy and the Rules more in line on this issue with the Uniform Domain Name Dispute Resolution Policy used for top-level domain names and trade-mark law in Canada. Based on the Complainant's use of the Complainant's trade-marks, which are identical to Complainant's Mark, in Canada since as early as November 2012, the Complainant has had rights in the Complainant's Mark within the meaning of Paragraph 3.1(a) of the Policy since at least November 2012 and accordingly prior to the date of registration of the Disputed Domain Name, October 31, 2013.

45. Based on the above, the Panel is satisfied that the Complainant had Rights in the Complainant's Mark (SQUAMISHVALLEYMUSICFESTIVAL) prior to the registration of the Disputed Domain Name and continues to have such Rights.

Was the Disputed Domain Name registered in bad faith?

46. The Complainant submits that a Registrant's purpose in registering a domain name may be determined by common sense inference from the conduct of the Registrant and other surrounding circumstances.

47. The Panel notes also, the amendments to paragraph 3.5 of the Policy, which came into effect August 22, 2011, and which apply to this dispute have generally broadened the scope of the circumstances by making them non-exhaustive and adding a fourth specific circumstance broadening the factors Panels may consider in concluding that there was Bad Faith. The effect of the amendments, in view of the Panel, is that the introductory language means that the four expressly specified circumstances of Bad Faith inform the Panel not only of these specific instances, but also by inference of the general nature of the Bad Faith impugned by the Policy. A Panel has an obligation to

consider whether there is Bad Faith of this general nature though the facts may not fall strictly within the language of the four expressly specified circumstances.

Bad Faith under 3.5(c) of the Policy

48. The Complainant alleges that the Registrant registered the Disputed Domain Name or acquired the Registration, primarily for the purpose of disrupting the business of the Complainant who is a competitor of the Registrant, paragraph 3.5(c) of the Policy. To support its claim, the Complainant alleges that the Registrant is a competitor because the Registrant has proposed to set up "a smaller version of the Squamish Valley Music Festival" on lands of the Registrant. The Complainant further alleges that the use of the confusingly similar domain name to divert a complainant's customers or potential customers to the registrant's website offering competing services constitutes disruption of the Complainant's business.

49. In 2013, when the Disputed Domain Name was registered, the Registrant was interested in the Complainant's views on how they might work together to assist the Complainant's patrons in having a nice place to camp during the Festival. The Registrant writes that he registered a domain name containing the Complainant's trade-mark (the Complainant's Mark) to assist the Complainant's patrons find his location. It is clear both from the Registrant's email and the Complainant's solicitors' response that the Complainant did not have any affiliation with the Registrant, nor had the Complainant authorized the Registrant to use its trade-mark for any purpose. Again at the time of the Complaint on April 13, 2016, it is also clear that the Registrant recognizes the Complainant's Mark when he writes to the Complainant that "he owned the name for some time and has not used the web name nor has it ever been activated for public viewing". The Registrant adds that now that the 2016 Festival has been cancelled, he presumes that the Complainant would no longer have any interest in the web name nor would the Complainant object to the Registrant activating the web site and that he "also might be interested in running a smaller version of the Squamish Valley Music Festival" on his Garibaldi lands.

50. The evidence shows that the Registrant was not affiliated with, nor licenced by, nor authorized to use the Complainant's Mark when the Disputed Domain Name was registered on October 31, 2013. At the date of registration of the Disputed Domain Name, the Festival had operated for three years and preparations would be underway for the 2014 Festival. The 2014 Festival and 2015 Festival were nominated as "best International Festival" at the UK Festival Awards. Attendance increased rapidly over the 6 year past history of operations, with in excess of 118,000 people attending in 2015 to hear a line-up of over 80 artists on four separate stages. The Complainant has developed an extensive reputation and goodwill in the Complainant's Mark and has the exclusive right to use it in association with, among other things, music festivals, live musical entertainment and campground accommodations. At the time of the Complaint, the Registrant was not affiliated with, nor licensed by, nor authorized to use

the Complainant's Mark when he proposed to set up "a smaller version of the Squamish Valley Music Festival" on the Registrant's lands.

51. In this case, the Registrant has not "used" the Disputed Domain Name since its registration in 2013. In *Great Pacific Industries Inc. v. Ghalib DhalJa* (April, 2003), B.C.I.C.A.C., CIRA Dispute No 00009, p.20-21, the Registrant had its website "under construction" for three to five years. The Panel concluded that the Registrant should not be permitted to use the Complainant's trade-mark in its Domain Name and then simply sit on the name for years and concluded that the Complainant had satisfied the requirements of 3.5(c) that the Registrant registered the Disputed Domain Name primarily for the purpose of disrupting the business of the Complainant. The same conclusion was reached by the Panel in *BLANCO GmbH + Co KG v. AbdouAl-Khoulani*, CIRA Dispute No 00203, 6 November 2012, at page 8. The Panel agrees with that assessment.

Is the Registrant a competitor?

52. There is no definition of the term "competitor" neither in the Policy nor in the Rules. The term has been given both broad and narrow interpretation by Panels over the years. The amendments referred to in paragraph 47 above would accordingly justify the broader interpretation. Based on the evidence the Panel is of the view that the Registrant is a competitor within the terms of the Policy.

53. Accordingly the Panel is satisfied that the Complainant has satisfied the onus of bad faith in accordance with 3.5 (c).

Bad Faith under 3.5(b) of the Policy

54. The Complainant further claims that the Registrant has prevented the Complainant from registering or acquiring the Disputed Domain Name and has engaged in a pattern of registering domain names.

55. The Registrant registered the Disputed Domain Name which is confusingly similar to the Complainant's Mark without authority, license or approval of the Complainant.

56. As noted in the Affidavit of Paul Runnals at paragraph 21, in addition to the Disputed Domain Name, the Registrant registered the domain name, <squamishvalleymusicfestival.com>, and domain names which he no longer owns, <sqquamishvalleymusicfestivalcamping.com> and the .ca version of that domain name. The Claimant refers to the case of *Brock Beauty Inc. v. John Drake*, DCA-1739-CIRA. 4 February, 2016 at para. 31 where the Panel agrees that the unauthorized registration of as few as two domain names of third party Marks, including the Disputed Domain Name is sufficient to establish that the Registrant has engaged in a pattern of unauthorized registration.

57. The domain names referred to in paragraph 56 above also include the Complainant's Mark. To conclude that a registrant could escape the reach of paragraph 3(b) of the Policy on the basis that an intention to deprive the mark holder of the domain name cannot strictly be shown only encourages a registrant to misappropriate third party marks as domain names. The Policy is designed to address unauthorized domain name registrations in a cost-effective and timely manner without recourse to costly and lengthy court proceedings.

58. Given the expansive interpretation the Panel believes should be accorded the Policy, an intention on the part of a registrant to obstruct a mark owner together with a pattern of unauthorized domain name registrations should be sufficient to satisfy paragraph 3.5(b) of the Policy. Indeed this has been the position taken in cases decided pursuant to the Uniform Dispute Resolution Policy, which incorporates similar language.

59. Based on the above, the Panel is satisfied that the Complainant has satisfied its burden of proof of bad faith by the Registrant in accordance with Paragraphs 3.5(b) and (c) of the Policy.

Legitimate Interest of the Registrant

60. Paragraph 3.4 of the Policy sets out a non-exhaustive list of criteria upon which the Panel may find, based on all the evidence, that the Registrant has a legitimate interest in the Disputed Domain Name. Paragraph 4.1 of the Policy places the onus on the Complainant to provide "some evidence" that the Registrant did not have a legitimate interest in the Disputed Domain Name. Although "some evidence" is not defined, it imposes, in the Panel's view, a lower threshold than on a balance of probabilities. The onus on the Complainant is to provide "some evidence" of a negative.

Paragraph 3.4 (a)

61. The Complainant asserts that the Disputed Domain Name is not a "Mark" as defined in paragraph 3.2(a) in which the Registrant can have 'Rights', because the Disputed Domain Name is confusingly similar and infringes the Complainant's Mark, and therefore was not and could not be used by the Registrant for the purpose of distinguishing the Registrant's wares, services or business as required by paragraph 3.2 (a) of the Policy. The Registrant did not use the Disputed Domain Name or any related business name in "good faith" because the Registrant knew of the Complainant's Mark, the Festival and the Complainant's use of the Mark (whether registered or pre-registered in CIPO). The Disputed Domain Name has never been activated for public viewing. Neither the Complainant nor the general nor the limited partners have authorized, licensed or otherwise permitted the Registrant to use the Complainant's Mark in any way or to register or use the Disputed Domain Name.

Paragraph 3.4(b)

62. For the reasons set forth in paragraph 61 above, the Registrant did not use the disputed Domain Name in "good faith". Further, the Disputed Domain Name is not "clearly descriptive in Canada in the English or French language of (i) the character or quality of the wares, services or business; (ii) the conditions of, or the persons employed in, production of the wares, performance of the services or operation of the business; or (iii) the place of origin of the wares, services or business. The Registrant has admitted that he has never activated the Disputed Domain Name for public viewing. Accordingly, the ground of "legitimate interest" specified in paragraph 3.4(b) is not applicable.

Paragraph 3.4(c)

63. The Registrant has not registered the Disputed Domain Name in "good faith", as noted in paragraph 61 above. Further, the Complainant asserts that the Disputed Domain Name is not "understood in Canada to be the generic name" of any wares, services or business.

Paragraph 3.4(d)

64. As noted in paragraph 61 above, the Registrant did not use the Disputed Domain Name in good faith nor is it used in association with any non-commercial activity accordingly the Registrant has no legitimate interest within the meaning of paragraph 3.4(d) of the Policy.

Paragraph 3.4(e)

65. The Squamish Valley Music Festival does not constitute a name by which the Registrant was "commonly identified". (See *Independent Order of Foresters v. Noredu Enterprises Canada Inc.*, CIRA Dispute No.00017, 25 May 2004, at para. 50) and accordingly, the Registrant has no legitimate interest in the Disputed Domain Name in the sense of paragraph 3.4(e).

Paragraph 3.4(f)

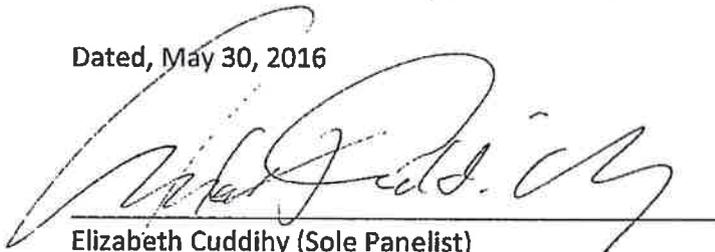
66. The ground of legitimate interest in paragraph 3.4(f) is not applicable as the Disputed Domain Name is not the geographical location of the Registrant's non-commercial activity or place of business.

67. Based on the evidence which is not refuted by the Registrant, the Panel is satisfied that the Complainant has provided sufficient evidence that the Registrant does not have a legitimate interest in the Disputed Domain Name as required by paragraphs 3.4 and 4.1 (c) of the Policy.

Decision

68. For the reasons set out herein, the Panel decides in favour of the Complainant and orders the transfer of the Disputed Domain Name to the Complainant forthwith.

Dated, May 30, 2016



Elizabeth Cuddihy (Sole Panelist)