



Textron Innovations Inc.)
Providence, RI)
)
(Complainant))
)
 v.)
)
Mike Brannigan)
Salem, OR)
)
(Respondent))
 _____)

Domain Names in Dispute:
hiobeech.com, bayareabeech.com

Case Number:
FA2404002095240

RESPONSE

[1.] Respondent received a Written Notice of Complaint and Commencement of Administrative Proceeding on **May 3, 2024**. The Notification stated that Complainant had submitted a Complaint for decision in accordance with the Uniform Domain Name Dispute Resolution Policy, adopted by the Internet Corporation for Assigned Names and Numbers (ICANN) on August 26, 1999 and approved by ICANN on October 24, 1999 (“UDRP” or “Policy”), and the Rules for Uniform Domain Name Dispute Resolution Policy (“Rules”), effective July 31, 2015, and the FORUM Supplemental Rules (“Supp. Rules”), effective July 31, 2015. Rule 4.

[2.] **RESPONDENT INFORMATION**

- [a.] Name: **Mike Brannigan**
- [b.] Address: **458 Eaglet St NW; Salem, OR 97304**
- [c.] Telephone: **503-395-8380**
- [d.] Fax: **None.**
- [e.] E-Mail: **schmookeeg@gmail.com**

[3.] **RESPONDENT AUTHORIZED REPRESENTATIVE, IF ANY**

None.

UDRP Rule 5(b)(ii).

Respondent's preferred contact person for correspondence relating to this case:

As above.

Rule 5(b)(iii).

The Respondent agrees to have this dispute heard before a **single-member administrative panel**.

Rule 5(b)(iv).

[3.] **RESPONSE TO FACTUAL AND LEGAL ALLEGATIONS MADE IN COMPLAINT**

This Response specifically responds to the statements and allegations contained in the Complaint by Textron, Inc., and includes all bases for the Respondent to retain registration and use of the disputed domain names "hiobeech.com" and "bayareabeech.com".

Rule 5(b)(i).

Complainant has furnished a detailed history of the Beechcraft Corporation, its rights to the "Beechcraft" mark, and even referenced the following in its complaint [Complaint, Page 4, last paragraph]:

"Respondent utilizes the Beechcraft name, model number, imagery and the "Beech" nickname extensively and excessively on its site"

Notably, and in Complainant's own words above, "beech" is at best a nickname for, among other things, a Beechcraft Aircraft, not a trademark or service mark. In fact, Complainant does not own the beech.com domain, nor did it furnish any "beech" related trademarks. The beech.com domain is apparently the property of Beech Computing, Inc. of Georgetown, MA. **[Respondent Annex #1: www.beech.com]**

Complainant's own website, provided in Complainant Exhibit #4, shows no use of the colloquial "beech". A search of these websites uncovered no use of "beech" in any advertising materials, interior website pages, nor anywhere at all. Instead, copious and conspicuous use of the "Beechcraft" term to describe a Beechcraft Aircraft were found, as would be expected.

"beech" is also a species of hardwood tree, popular in cabinetry and other wood products. As such, it is found in thousands of domains, city street names, and other generic, arboreal nomenclature not affiliated with the Textron military-industrial conglomerate.

Rule 3(b)(ix)(1); UDRP ¶ 4(a)(i).

Complainant continues with the allegation that Respondent is attempting to illegitimately divert traffic from the Beechcraft Corporation. A comparison of offered goods and services will dispel this notion as false:

Product	Offered by Beechcraft Corporation?	Offered by Bay Area Beech?
New Aircraft	Yes	No
Used Aircraft	No	No
Aircraft Parts	Yes	No
Aircraft Service	Indirectly, via "authorized service centers"	No
Pre-purchase Inspections	No	Yes
Flight Training	No	Yes
Ferry/Relocation	No	Yes

Using Complainant’s own Exhibits #4 and #5, any visitor in search of Complainant’s products (New Aircraft, Service, and Parts), arriving at Respondent’s website instead, would not be confused. Respondent does not sell these or *any* goods. Respondent provides services to pilots to help meet the regulatory requirements imposed on pilots and owners who own a Beechcraft aircraft by the Federal Aviation Administration (FAA). This use is nominative Fair Use used to communicate the nature of our services.

Respondent is an FAA-Certified Flight Instructor with Instrument, and Multi-Engine ratings, and works solely with the Beechcraft Bonanza and Baron products. He is also an FAA-Certified Mechanic holding Airframe, Powerplant, and Inspection Authorizations.

The American Bonanza Society (ABS), founded in 1967, is the world’s oldest Aviation Type Club, formed to assist owners, mechanics, and instructors with the challenges of owning the Beechcraft Bonanza and Baron type aircraft. The American Bonanza Society represents a symbiotic relationship with Beechcraft dating back 57 years.

Respondent was appointed as an authorized instructor for the ABS “Beech Pilot Proficiency Program” in 2012. He was inducted into the ABS Maintenance Academy in 2021. He owned the first ABS “Beech Center of Excellence” from 2005-2015. His work as a freelance instructor/mechanic as HIO Beech, and now Bay Area Beech date to 2016.

“HIO Beech” and “Bay Area Beech” describe two simple facts about Respondent’s services: Where they can be found, and which aircraft they apply to. No *potential* customer of Complainant will have any need for Respondent’s services. Respondent uses this trade name to ease any future expansion to a multi-employee company.

To state that Respondent has no legitimate interest in the disputed names is incorrect. Respondent’s customers are *already* customers of Complainant in need of FAA services not provided by Complainant, who were referred to Respondent via the ABS.

[Respondent Annexes #4, #5, #6: American Bonanza Society Affiliations] We are not competitors. We exist at opposite ends of the vast aviation spectrum, namely, Pilot Services (for Beechcraft owners) vs. Aircraft Manufacturing (of Beechcraft).

Further, addressing Complainant's specific case citations, in order:

Bloomberg Finance L.P. v. Nexperian Holding Limited

This decision is immaterial, as "Bloomberg" is a trademarked name with no other meanings, unlike "Beech".

Morgan Stanley v. Nicenic.com, Inc.

This decision is immaterial, as the Complainant in this proceeding was fraudulently attempting to mimic Morgan Stanley and deliberately sow confusion by hosting imagery of the Morgan Stanley Headquarters and plagiarizing content from Morgan Stanley. Bay Area Beech makes no representations implying we are an aircraft manufacturer, nor supplier of aircraft parts.

Brunswick Corporation v. Joshua Adams

This decision is immaterial, as "merc" has no meaning, and is only given such by virtue of being an abbreviation, in this case, for Mercury. Beech has meaning on its own, and in any case, is not trademarked.

Google LLC v. Nikita Modi

This decision is immaterial as above, as "YT" is not a word or phrase on its own and is only given such meaning by virtue of being an abbreviation.

Rule 3(b)(ix)(2); UDRP ¶ 4(a)(ii).

Complainant further alleges that Respondent's use of these domain names was done in bad faith. Possible interpretations of bad faith registration include:

1. Registering a domain name with intent to sell, rent, or profit from the act of registration.
2. Registering a domain name with intent to deny a trademark holder use of it.
3. Registering a domain name to disrupt a competitor's business.

I believe these points have all been refuted above.

Complainant has no relevant trademarks of the generic term "beech", which a layperson would associate with a species of tree, a type of hardwood lumber, and even those persons within the aviation community understand to be a colloquialism distinct from Beechcraft the company and its products.

Complainant itself does not use the beech "nickname" in any of its advertising, literature, or domain names. Complainant does not own beech.com or any of the thousands of already registered domains containing "beech". Respondent has a legitimate use of its domain names and has traded with them since 2016. Respondent is not now, nor has ever been in the business of "domain name squatting". Respondent does not compete with Complainant, nor seek to affect its business in any way. Respondent has no use for the *intended* customers of Complainant and would not benefit from any "confusion" which anyway does not exist.

There are *thousands* of extant domain names already registered containing the word “beech”. None were included in the Complaint, and it is presumed that Complainant owns none of these. **[Respondent Annex #2: Domain listings containing “beech”]**

There are 99 extant domains registered containing the term “Beechcraft”. *None* are Respondent’s. Not all appear to be Complainant’s. **[Respondent Annex #3: Domain listings containing “Beechcraft”]**

Regardless of these points, Respondent asserts a valid nominative fair use of the term “beech”, as a provider of services for Beechcraft aircraft, separate and distinct from Complainant’s actual products. Should confusion still enter the equation, the recently added disclaimer in our website footer “*Hillsboro Beech and Bay Area Beech are not affiliated with Textron, its subsidiaries or affiliates*” should aid in final clarity.

The commonly cited precedent for nominative fair use is found in *Oki Data Americas vs. ASD, Inc.* (WIPO D2001-0903) which supplies these four points for an affirmative defense of fair use:

- Respondent must actually be offering the goods or services at issue
- Respondent must use the site to sell only the trademarked goods
- The site must accurately disclose the registrant's relationship with the trademark owner; it may not, for example, falsely suggest that it is the trademark owner, or that the website is the official site, if, in fact, it is only one of many sales agents
- The Respondent must not try to corner the market in all domain names, thus depriving the trademark owner of reflecting its own mark in a domain name

As Bay Area Beech is offering its own unique services, does not sell trademarked (or any) goods, discloses its lack of relationship with Textron, and has not attempted to “corner a market in domain names”, its nominative fair use is established, and we meet the “bona fide” test referenced therein. The use is fair, non-confusing, and should be permitted.

I believe any claim that “beech” is a singular and unique shorthand for “Beechcraft” is without merit, and the current domain registry bears this out. The Complainant’s lack of use of the term bears this out. “beech” is a diluted and generic term of no specific value to Complainant.

The term is, however, an important disambiguating term of fair use to Respondent, hence their registration and use for the last 8 years. As Respondent does not instruct or relocate other popular makes of aircraft such as Piper, Mooney, Cessna, or Maule, it is simply an efficient and useful term describing Respondent’s services.

Rule 3(b)(ix)(3); UDRP ¶ 4(a)(iii).

Summary of Key Points refuting this complaint:

Confusing Similarity: Complainant asserts there is confusing similarity/identity to the Textron Beechcraft trademark. We assert a nominative fair use, as “beech” describes our services precisely. The term “beech” is diluted with thousands of domain names, even within a smaller aviation circle, and no confusion is possible with Complainant’s trademark, as we do not sell competing products; Respondent only sells FAA-mandated services that pertain to and support owners of Complainant’s products.

Legitimate Interests: After describing Respondent’s services above, Complainant contradicts themselves in asserting there is no legitimate interest in Respondent’s use of the “beech” term of art, when there clearly is a nominative fair use. Complainant has no trademarks in the word “beech” and is not the gatekeeper or licensor of its use. Further, Complainant implies an intent to “divert traffic” and “capitalize on confusion”, when Respondent can in no way profit from such.

Bad Faith: Complainant claims bad faith intention to disrupt business and attract business unfairly from Complainant. Since Respondent only offers services that Complainant does not, and vice-versa, this is an impossible and inflammatory assertion with no merit.

[4.] OTHER LEGAL PROCEEDINGS

This proceeding is our first and only communication from Complainant regarding this matter.

Rule 5(b)(vi).

[5.] RESPONSE TRANSMISSION

The Respondent asserts that a copy of the Response, as prescribed by FORUM’s Supplemental Rules, has been sent or transmitted to the Complainant, in accordance with Rule 2(b). Rule 5(b)(vii); FORUM Supp. Rule 5.

[6.] The Respondent respectfully requests that the Administrative Panel denies the remedy requested by the Complainant.

If Complainant’s position is that it is entitled to the *literal thousands* of existing domains containing the name “beech”, as it appears to be, then Respondent would suggest that this has been a misuse of administrative process by a \$13.4B conglomerate and merits an additional finding of RDNH to limit this unfair over-reach.

Rule 15(e).

[7.] CERTIFICATION

Respondent certifies that the information contained in this Response is to the best of Respondent's knowledge complete and accurate, that this Response is not being presented for any improper purpose, such as to harass, and that the assertions in this Response are warranted under these Rules and under applicable law, as it now exists or as it may be extended by a good-faith and reasonable argument.

Respectfully Submitted,

Michael Brannigan

/s/ Mike Brannigan, FAA Certificate #2812174, ABS Member # L51511

May 7, 2024

Respondent Annex Schedule:

- #1 – “Screenshot of last www.beech.com website showing Beech Computer, Inc.”
- #2 – “Screenshot of registered domains containing `beech` numbering in the thousands.”
- #3 – “Screenshot of registered domains containing `Beechcraft`, numbering 99.”
- #4 – “Screenshot of Respondent's American Bonanza Society profile.”
- #5 – “Screenshot of the American Bonanza Society's `Find a Mechanic` page.”
- #6 – “Screenshot of the American Bonanza Society's `Find an Instructor` page.”

Rule 5(b)(ix).

~~~ *Nothing follows.* ~~~