

**IN THE MATTER OF A COMPLAINT PURSUANT TO THE  
CANADIAN INTERNET REGISTRATION AUTHORITY  
DOMAIN NAME DISPUTE RESOLUTION POLICY**

Domain Name: calgarystampede.ca  
Complainant: The Calgary Exhibition & Stampede Limited  
Registrant: Gordon Squires  
Registrar: Sibername Internet and Software Technologies Inc.  
Panel: Bradley J. Freedman (Chair), Patrick D. Flaherty and W. A. Derry Millar  
Provider: The British Columbia International Commercial Arbitration Centre  
BCICAC File No.: DCA-1473-CIRA

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**DECISION**

**A. The Parties**

1. The Complainant is The Calgary Exhibition & Stampede Limited, a company with an office in Calgary, Alberta, Canada.
2. The Registrant is Gordon Squires, an individual with a mailing address in Ottawa, Ontario, Canada.

**B. The Domain Name and Registrar**

3. The disputed domain name is calgarystampede.ca (the “**Domain Name**”).
4. The Domain Name was registered on November 8, 2000.
5. The registrar of the Domain Name is Sibername Internet and Software Technologies Inc.

**C. Procedural History**

6. This is an administrative dispute resolution proceeding pursuant to the *CIRA Domain Name Dispute Resolution Policy* version 1.3 (August 22, 2011) (the “**Policy**”) and the *CIRA Domain Name Dispute Resolution Rules* version 1.4 (the “**Rules**”), both issued by the Canadian Internet Registration Authority (“**CIRA**”).

7. This proceeding is administered by British Columbia International Commercial Arbitration Centre (the “**Provider**”), which is a recognized service provider pursuant to Policy paragraph 1.5.

8. According to the information provided by the Provider, the initial procedural history of this proceeding is as follows:

- On March 4, 2013, the Complainant filed a complaint in relation to the Domain Name pursuant to the Policy (the “**Complaint**”).
- By letter and email dated March 6, 2013, the Provider advised both the Complainant and the Registrant that the Complaint was in administrative compliance with the Policy and the Rules, and delivered a copy of the Complaint to the Registrant in the manner prescribed by Rules paragraph 2.1.
- The Registrant failed to file a response to the Complaint by the applicable deadline (March 26, 2013).
- On March 27, 2013, the Provider gave notice to the parties that the Registrant had failed to file a response to the Complaint by the applicable deadline.
- On March 27, 2013, after the Provider gave notice to the parties that the Registrant had failed to file a response to the Complaint by the applicable deadline, the Registrant sent an email to the Provider requesting the Provider accept a late response.
- The Provider advised the parties that the Registrant’s request would be forwarded to the Panel.
- On April 2, 2013, the Provider appointed the Panel.

9. As required by Rules paragraph 7.1, each panellist has submitted a declaration of impartiality and independence to the Provider.

10. The Panel finds that it was properly constituted and appointed in accordance with the Policy and the Rules.

11. Based upon the information provided by the Provider, the Panel finds that all technical requirements for the commencement and maintenance of this proceeding were met.

12. The Panel is not aware of any other legal proceeding or other arbitration in relation to the Domain Name that would give rise to a need to alter the progress of this proceeding pursuant to Rules paragraph 13.2.

#### **D. Eligibility of Complainant**

13. The Complainant is an eligible complainant under Policy paragraph 1.4, because the Complainant is a Canadian corporation and also because the Complaint relates to a registered trade-mark of which the Complainant is the owner.

## **E. Relief Requested**

14. The Complainant requests that the Domain Name registration be transferred from the Registrant to the Complainant.

## **F. Applicable Law**

15. In accordance with Rules paragraph 12.1, the Panel will render its decision based upon the rules and principles of the laws of Ontario and the laws of Canada applicable in Ontario.

## **G. Procedural Issues – Registrant’s Request for Extension of Time to File Response**

16. As a consequence of the Registrant’s request to the Provider to accept a late response, the Panel issued a Direction dated April 8, 2013 directing the parties to file additional submissions regarding the Registrant’s request for an extension of time to file a response to the Complaint, and extending the date for the issuance of the Panel’s decision in this matter. The deadline for the Registrant’s submissions was April 17, 2013.

17. The Registrant failed to deliver his submissions by the April 17, 2013 deadline (or at any time after that date) and did not request a further extension of time to do so. Accordingly, the Panel issued a second Direction dated April 22, 2013 directing that the Complainant need not deliver submissions regarding the Registrant’s request for an extension of time to file a response to the Complaint, and specifying that the Panel would proceed to render its decision in this matter.

18. The Registrant’s failure to respond to the Complaint does not automatically result in a decision in favour of the Complainant. There is no concept of a default award under the Policy or the Rules. Rules paragraph 5.8 provides that if a registrant does not submit a response within the applicable period, the Panel shall decide the Proceeding on the basis of the Complaint. While the Panel may draw appropriate inferences from a registrant’s failure to respond to a complaint, the complainant must still satisfy the requirements of the Policy. Accordingly, it is incumbent upon the Panel to assess the Complaint and determine whether the Complainant has satisfied the requirements of the Policy.

## **H. Facts**

19. The undisputed facts relevant to the Panel’s decision are set forth in the Complaint (including its schedules), and are as follows:

- The Complainant operates the world famous annual rodeo, exhibition and festival known as “The Calgary Stampede”, which is one of the world’s richest rodeos, one of Canada’s largest festivals, and a significant tourist attraction for the city of Calgary.
- The Complainant is the owner of the Canadian registered trade-marks CALGARY STAMPEDE (registered February 13, 1987, TMA323480) and CALGARY STAMPEDE & DESIGN (registered February 13, 1987, TMA323481) and the official marks CALGARY STAMPEDE (advertised October 30, 1985, 1987, application no. 0902164)

and CALGARY STAMPEDE & DESIGN (advertised October 30, 1985, application no. 0902160) (collectively, the “**CALGARY STAMPEDE Marks**”).

- The official website for the Calgary Stampede uses the domain name [www.calgarystampede.com](http://www.calgarystampede.com).
- The Domain Name was initially registered on November 8, 2000, many years after advertisement of the Complainant’s CALGARY STAMPEDE Marks.
- In October 2012, the Domain Name resolved to a website for a bar in Calgary called “Ranchman’s Cookhouse & Dancehall” (“**Ranchman’s**”). Ranchman’s promotes itself as “Calgary Canada’s #1 Country Nightclub” and “Calgary’s iconic country nightclub”.
- The Complainant’s legal counsel issued a cease and desist letter dated October 26, 2012 to Ranchman’s. By letter dated November 19, 2012, Ranchman’s responded to the Complainant’s demands by claiming that Ranchman’s was using the Domain Name pursuant to a negotiated arrangement. Ranchman’s also asserted that the Complainant’s legal counsel was in a conflict of interest.
- Shortly after the initial exchange of correspondence, registered ownership of the Domain Name was transferred to the Registrant, who appears to be associated with a law firm in Calgary, Alberta. The domain name continued to resolve to Ranchman’s website.
- The Complainant’s legal counsel issued two cease and desist demand letters dated December 13, 2012 and January 7, 2013 to the Registrant. The Registrant did not respond to either letter.
- The Complainant has no affiliation with Ranchman’s, which competes with the Complainant’s own bars and other venues and is viewed by the Complainant as one of the Complainant’s competitors.
- There is not, and has never been, any business relationship between the Complainant and the Registrant. The Registrant is not, and has never been, authorized or permitted to use the CALGARY STAMPEDE Marks. The Registrant is not, and has never been, authorized by the Complainant to register the Domain Name.

## **I. Parties’ Contentions**

20. The Complainant contends as follows:

- The Complainant is the owner of the CALGARY STAMPEDE Marks, and the Domain Name is identical, and therefore confusingly similar to, those marks.
- The Registrant registered the Domain Name in bad faith because: (1) the Registrant registered the Domain Name primarily for the purpose of disrupting the business of the Complainant, who is a competitor of the Registrant; and (2) the Registrant registered the Domain Name primarily for the purpose of intentionally attempting to attract, for commercial gain, Internet users to the Registrant’s website by creating a likelihood of confusion with the CALGARY STAMPEDE Marks.
- The Registrant has no legitimate interest in the Domain Name.

21. The Registrant did not file a response to the Complaint or dispute the Complainant's contentions in any other way.

## **J. Discussion and Findings**

22. Policy paragraph 3.1 provides that the Policy applies where a complainant asserts the following:

- (a) the registrant's dot-ca domain name is "Confusingly Similar" (as defined in Policy paragraph 3.3) to a "Mark" (as defined in Policy paragraph 3.2) in which the complainant had rights prior to the date of registration of the domain name and continues to have such rights;
- (b) the registrant has no "legitimate interest" in the domain name, as described in Policy paragraph 3.4; and
- (c) the registrant has registered the domain name in "bad faith", as described in Policy paragraph 3.5.

If a dispute does not fall within this narrow framework, it is beyond the scope of the Policy.

23. Policy paragraph 4.1 sets forth the onus on the Complainant, and reads as follows:

"4.1 **Onus.** To succeed in the 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."

### **(a) The Complainant's Marks**

24. The Complainant must prove, on a balance of probabilities, that the 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.

25. Policy paragraph 3.1 provides that the date of registration of a domain name is "the date on which the domain name was registered in the Registry or the predecessor registry operated by the University of British Columbia by the Registrant or a predecessor in title of the Registrant". Based upon the evidence provided by the Complainant, the Panel finds that the Domain Name

was first registered by the Registrant's predecessor in title on November 8, 2000. Accordingly, November 8, 2000 is the date for determining whether the Complainant had rights in a "Mark".

26. Policy paragraph 3.2 defines the term "Mark" as including "a trade-mark, including the word elements of a design mark, that is registered in CIPO" and "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)*". Accordingly, each of the CALGARY STAMPEDE Marks is a "Mark" within the meaning of the Policy.

27. The Complainant contends that the Domain Name is "Confusingly Similar" to the CALGARY STAMPEDE Marks.

28. Policy paragraph 3.3 specifies that the test for determining whether a disputed domain name and a mark are "Confusingly Similar" is a narrow resemblance test rather than the broader confusion test that is usually applied in trade-mark disputes. Policy paragraph 3.3 reads as follows:

"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."

29. The test for "Confusingly Similar" under Policy paragraph 3.3 is a test of resemblance based upon first impression and imperfect recollection. The underlying rationale for this test is discussed in *Canadian Thermos Products Inc. v. Michael Fagundes*, CIRA Dispute 00049.

30. Policy paragraph 1.2 provides as follows:

"For the purposes of this Policy, "domain name" means the domain name excluding the "dot-ca" suffix and the suffixes associated with all third and fourth level domain names accepted for registration by CIRA."

31. Accordingly, the Complainant must prove on a balance of probabilities that a person, on a first impression of the Domain Name (without the dot-ca suffix) and having an imperfect recollection of the CALGARY STAMPEDE Marks, would likely mistake the Domain Name (without the dot-ca suffix) for the CALGARY STAMPEDE Marks based upon the appearance, sound or the ideas suggested by the CALGARY STAMPEDE Marks.

32. The Domain Name (without the dot-ca suffix) is identical to the Complainant's CALGARY STAMPEDE trade-mark and CALGARY STAMPEDE official mark, and is identical to the word elements of the CALGARY STAMPEDE & DESIGN trade-mark and the CALGARY STAMPEDE & DESIGN official mark. It therefore follows that, applying the test of resemblance based upon first impression and imperfect recollection, that the Domain Name is "Confusingly Similar" to the Complainant's CALGARY STAMPEDE Marks within the meaning of Policy paragraph 3.3.

**(b) Bad Faith**

33. Policy paragraph 4.1 requires the Complainant to prove, on a balance of probabilities, that the Registrant registered the Domain Name in “bad faith” as described in Policy paragraph 3.5.

34. Policy paragraph 3.5 sets forth a non-exhaustive list of circumstances that are evidence that a registrant has registered a domain name in “bad faith”, including the following:

*“(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.*

*“(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.”*

35. Only in rare cases will there be direct evidence of a registrant’s bad faith. In most cases, a panel’s findings regarding a registrant’s purposes in registering a domain name will be based upon common sense inferences from the registrant’s conduct and other surrounding circumstances.

36. The Complainant relies upon two circumstances – disrupting the Complainant’s competing business and intentional confusion of Internet users – as evidence of the Registrant’s bad faith registration and use of the Domain Name. The Panel will consider each separately.

*(i) Disrupting Business of Competitor – Policy Paragraph 3.5(c)*

37. The Complainant contends that the Registrant registered the Domain Name or acquired its registration primarily for the purpose of disrupting the business of the Complainant because the Domain Name, which is confusing with the Complainant’s CALGARY STAMPEDE Marks, causes confusion in the market place and directs the Complainant’s actual and potential customers to Ranchman’s website which advertises a business that competes with the Complainant.

38. The Complainant relies upon the following facts (established by the Complaint) to prove the Registrant’s purpose in registering the Domain Name:

- The Domain Name was registered long after the advertisement and registration of the Complainant’s well-known CALGARY STAMPEDE Marks, and it is inconceivable that the Registrant and his predecessor were not aware of the Complainant’s world famous annual rodeo, exhibition and festival and the CALGARY STAMPEDE Marks when the Domain Name was registered.
- The Domain Name is identical to the CALGARY STAMPEDE Marks.
- The Domain Name resolves to Ranchman’s website, and Ranchman’s sells certain goods and services that compete with the Complainant’s own bars and other venues.

- The Registrant became the registered owner of the Domain Name after the Complainant delivered its cease and desist demand letter to Ranchman's.

39. The Registrant has not filed a response to the Complaint to dispute the Complainant's evidence or contentions or to otherwise justify the initial registration of the Domain Name by Ranchman's or the Registrant's acquisition of the registration of the Domain Name from Ranchman's after the Complainant delivered its cease and desist demand letter to Ranchman's. The Panel draws an adverse inference that Ranchman's did not have a good faith registration for its registration of the Domain Name and the Registrant did not have a good faith reason for acquiring the registration of the Domain Name from Ranchman's.

40. Based on the foregoing facts and the referenced adverse inference, the Panel finds that the Complainant has proven, on a balance of probabilities, that the Registrant registered or acquired the Domain Name primarily for the purpose of disrupting the business of the Complainant within the meaning of Policy paragraph 3.5(c), because the Domain Name is likely to confuse the Complainant's customers or potential customers and direct them to the Ranchman's website. See *Sleep Country Canada Inc. v. Pilfold Ventures Inc.* (CIRA Decision No. 0027, March 14, 2005); *Microsoft Corporation v. Ratansothy* (CIRA Decision No. 00209, November 27, 2012); *Ryerson University v. MetCap Living Management Inc.* (CIRA Decision No. 00172, November 15, 2011).

41. The Panel also finds that the Complainant is a "competitor" of the Registrant, as required by Policy paragraph 3.5(c), because the Registrant is using the Domain Name for a website operated by Ranchman's, a direct competitor of the Complainant, which is sufficient to make the Registrant and the Complainant competitors within the meaning of Policy paragraph 3.5(c). See *Sleep Country Canada Inc. v. Pilfold Ventures Inc.* (CIRA Decision No. 0027, March 14, 2005); *The Standard Life Assurance Company of Canada v. Morin* (CIRA Decision No. 0046, November 16, 2005); *DKH Retail Limited v. Facciolo* (CIRA Decision No. 00155, August 17, 2010); and *Jan-Pro Canada Inc. v. Computerfest* (CIRA Decision No. 00162, January 27, 2011).

(ii) *Intentional Confusion of Internet Users – Policy Paragraph 3.5(d)*

42. The Complainant contends that the Registrant registered the Domain Name or acquired its registration to intentionally attempt to attract, for commercial gain, Internet users to Ranchman's website by creating a likelihood of confusion with the Complainant's well-known CALGARY STAMPEDE Marks as to the source, sponsorship, affiliation or endorsement of Ranchman's website or of a product or service advertised on Ranchman's website.

43. The Complainant argues that the Domain Name is identical to the Complainant's marks, and that Internet users are likely to conclude that Ranchman's business, which is advertised on the website accessible using the Domain Name, is endorsed, sponsored or approved by the Complainant. The Complainant asserts that the Complainant has not given any endorsement, sponsorship or approval of Ranchman's business.

44. The Complainant has not provided any direct evidence that the Registrant receives a commercial gain by directing Internet users to Ranchman's website. Nevertheless, a finding that the Registrant derives a commercial gain may be based upon common sense inferences from the registrant's conduct and other surrounding circumstances. It is well known that individuals

derive financial benefit by using domain names to promote third party business, including by licensing the use of the domain name by a specific third party business or by using the domain name for website that advertises multiple third party businesses. See *HMV (IP) Limited and HMV Canada Inc. v. Mateescu* (CIRA No. 00185, March 25, 2012).

45. The Panel notes the following facts established by the Complainant:

- The Domain Name was registered long after the advertisement and registration of the Complainant's well-known CALGARY STAMPEDE Marks, and it is inconceivable that the Complainant and its predecessor were not aware of the Complainant's world famous annual rodeo, exhibition and festival and the CALGARY STAMPEDE Marks when the Domain Name was registered.
- The Domain Name is identical to the CALGARY STAMPEDE Marks.
- The Domain Name resolves to Ranchman's website, and Ranchman's sells certain goods and services that compete with the Complainant's own bars and other venues.
- The Registrant became the registered owner of the Domain Name after the Complainant delivered its cease and desist demand letter to Ranchman's.

46. The Registrant has not filed a response to the Complaint to dispute the Complainant's evidence or contentions or to otherwise justify the initial registration of the Domain Name by Ranchman's or the Registrant's acquisition of the registration of the Domain Name from Ranchman's after the Complainant delivered its cease and desist demand letter to Ranchman's. The Panel draws an adverse inference that Ranchman's did not have a good faith registration for its registration of the Domain Name and the Registrant did not have a good faith reason for acquiring the registration of the Domain Name from Ranchman's.

47. Based on the foregoing facts and the referenced adverse inference, the Panel finds that the Complainant has proven, on a balance of probabilities, that the Registrant registered or acquired the Domain Name to intentionally attempt to attract, for commercial gain, Internet users to Ranchman's website by creating a likelihood of confusion between the Domain Name and the Complainant's CALGARY STAMPEDE Marks, within the meaning of Policy paragraph 3.5(d). See *Glen Raven Inc. v. Kotarac* (CIRA Decision No. 00173, November 15, 2011); *The Exite Group Inc. v. Zucker International Marketing Inc.* (CIRA Decision No. 00176, December 7, 2011); and *Etro S.p.A. v. Segarra* (CIRA Decision No. 00184, March 26, 2012).

(iii) *Summary – Bad Faith*

48. For those reasons, the Panel finds that the Complainant has proven, on a balance of probabilities, that the Registrant registered the Domain Name in bad faith as described in Policy paragraph 3.5.

**(c) No Legitimate Interest**

49. Policy paragraph 4.1(c) requires a complainant to provide "some evidence" that a registrant has no legitimate interest in a disputed domain name as described in Policy paragraph 3.4, which provides a non-exhaustive list of circumstances that demonstrate that a registrant has a legitimate interest in a domain name. Policy paragraph 1.2 provides that a

reference to “domain name” in the Policy means a disputed domain name excluding the “dot-ca” suffix.

50. Policy paragraphs 3.4 and 4.1(c) together require a more or less objective or ascertainable legitimate link between a registrant and a disputed domain name (without the “dot-ca” suffix) aside from mere registration. The criteria specified in Policy paragraphs 3.4(a), (b), (c) and (d) focus on a registrant’s registration or use of a disputed domain name and require that the registration or use be “in good faith”. The criteria specified in Policy paragraphs 3.4(e) and (f) relate to other kinds of legitimate links between the disputed domain name and the registrant or the registrant’s activities. In addition to the listed criteria, the parties or panel may look beyond the listed criteria to determine whether a registrant has a legitimate interest in a disputed domain name. See *General Motors LLC v. Thompson*, (CIRA Decision No. 00191, May 11, 2012) and *Weekday Brands AB v. Leslie*, (CIRA Decision No. 00201, October 12, 2012).

51. A plain reading of Policy paragraph 4.1(c) requires a panel to consider whether a registrant has a legitimate interest in a domain name based upon any of the criteria listed in Policy paragraph 3.4 or other circumstances. The fact that one or more of the listed criteria are not applicable is not determinative, because a legitimate interest may be established under any of the listed criteria or other circumstances. Further, the fact that a registrant may not have registered or used a disputed domain name in good faith (and therefore Policy paragraphs 3.4(a), (b), (c) and (d) are not applicable) does not mean that the registrant does not have a legitimate interest in the domain name under the criteria specified in Policy paragraphs 3.4(e) and (f) or otherwise. This view is consistent with a reading of Policy paragraph 4.1 as a whole, which treats as distinct elements bad faith registration of a disputed domain name and legitimate interest in a disputed domain name, and expressly provides that a registrant who registers a disputed domain name in bad faith may nevertheless succeed in a proceeding under the Policy by establishing that the registrant has a legitimate interest in the disputed domain name.

52. A complainant’s burden regarding a registrant’s lack of a legitimate interest in a disputed domain name is relatively light. Policy paragraph 4.1 requires a complainant to provide “some evidence” that a registrant has no legitimate interest in a disputed domain name, and then the burden shifts to the registrant to prove that the registrant has a legitimate interest in the domain name. This approach reflects the fact that in most cases the nature of a registrant’s legitimate interests, if any, in a domain name lies most directly within the registrant’s knowledge. In most cases, a complainant can satisfy its evidentiary onus to provide “some evidence” that a registrant does not have a legitimate interest in a disputed domain name by undertaking reasonable, limited inquiries or conducting rudimentary Internet-based searches using the registrant’s name and other contact details disclosed in the publicly available WHOIS database for the disputed domain name or otherwise obtained by the complainant.

53. The Complaint is signed by the Complainant’s legal counsel as the Complainant’s authorized representative and contains the following statement: “The Complainant certifies that the information contained in this Complaint is to the best of the Complainant’s knowledge complete and accurate...”. The Complainant’s assertions regarding the inapplicability of the criteria for legitimate interest specified in Policy paragraph 3.4 are as follows:

- The Registrant is not using the Domain Name in good faith because the Registrant is using the Domain Name for a website operated by the Complainant’s competitor –

Ranchman's. The Registrant acquired the registration of the Domain Name after the Complainant delivered its cease and desist demand letter to Ranchman's.

- The Domain Name is not clearly descriptive of the character or quality of the Registrant's wares, services or business, the conditions of, or the persons employed in, production, performance or operation of the Registrant's wares, services or business.
- The Domain Name is not the generic name of the Registrant's wares, services or business.
- The Domain Name is not being used in association with a non-commercial activity.
- The Domain Name is not the geographical name of the location of the Registrant's place of business.
- The Domain Name is not a legal name or commonly used identifier of the Registrant.
- Domain Name resolves to Ranchman's website, which advertises Ranchman's goods and services that compete with the Complainant's own bars and other venues.
- The Registrant does not have any express or implied license or consent from the Complainant to use the CALGARY STAMPEDE Marks.
- The Registrant does use the words "Calgary Stampede" as a trade-mark, company name, business name or trade name.

54. Except for the assertions in the signed and certified Complaint, the Complainant has not provided any evidence of trade-mark searches or other investigations to indicate that the Registrant does not have a legitimate interest in the term "Calgary Stampede". In some circumstances, the omission of that evidence might be fatal to a complaint under the Policy. Nevertheless, in the circumstances of this case, including the distinct nature of the CALGARY STAMPEDE Marks, the Registrant's name (as indicated in the registrant information provided by the Registrar and in an email from the Registrant to the Provider), the Registrant's business – a law firm (as indicated in an email from the Registrant to the Provider), the Registrant's acquisition of the registration of the Domain Name after the Complainant had delivered its cease and desist demand letter to Ranchman's, and the Registrant's continuing use of the Domain Name for Ranchman's website, the signed and certified Complaint together with an adverse inference from the Registrant's failure to file a response to the Complaint are sufficient to satisfy the Complainants' relatively light evidentiary burden to provide "some evidence" that the Registrant does not meet any of the criteria listed in Policy paragraph 3.4 and therefore does not have a legitimate interest in the Domain Name as described in Policy paragraph 3.4.

55. Accordingly, the onus shifts to the Registrant to prove, on a balance of probabilities, that he has a legitimate interest in the Domain Name. The Registrant has not filed a response to dispute the Complainant's contentions, or to justify the Registrant's registration and use of the Domain Name.

56. For those reasons, the Panel finds that the Complainant has satisfied the evidentiary burden to provide "some evidence" that the Registrant does not have a legitimate interest in the Domain Name as described in Policy paragraph 3.4, and the Registrant has not proven, on a balance of probabilities, that the Registrant has a legitimate interest in the Domain Name as described in Policy paragraph 3.4.

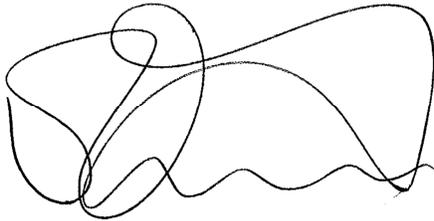
**K. Conclusion and Decision**

57. For the reasons set forth above, the Panel finds as follows:

- The Complainant is eligible to file the Complaint.
- The Complainant has proven, on a balance of probabilities, that the Domain Name is Confusingly Similar to the Complainant's CALGARY STAMPEDE Marks, each of which is a Mark in which the Complainant had rights before the registration of the Domain Name and continues to have rights.
- The Complainant has proven, on a balance of probabilities, that the Registrant registered the Domain Name in bad faith as described in Policy paragraph 3.5.
- The Registrant does not have any legitimate interest in the Domain Name as described in Policy paragraph 3.4.

58. Based on these findings, the Panel decides this proceeding in favour of the Complainant and orders that the registration of the Domain Name be transferred to the Complainant.

Dated: May 10, 2013.



\_\_\_\_\_ for  
Bradley J. Freedman (Chair), Patrick D. Flaherty and W. A. Derry Millar