

## **ADMINISTRATIVE PANEL DECISION**

Home Run Franchising, LLC v. Leiby Goldberger  
Case No. D2025-1832

### **1. The Parties**

Complainant is Home Run Franchising, LLC, United States of America (“United States”), represented by Lawyers People Love, United States.

Respondent is Leiby Goldberger, United States, represented by Cylaw Solutions, India.

### **2. The Domain Name and Registrar**

The disputed domain name <dryerventsuperheroes.com> is registered with Dynadot Inc (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 7, 2025. On May 8, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 11, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on May 15, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on May 15, 2025.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on May 16, 2025. In accordance with the Rules, paragraph 5, the due date for Response was June 5, 2025. On June 4, 2025, Respondent requested the automatic 4-day extension to submit its Response and a further 7-day extension until June 16, 2025. Respondent was granted the automatic four calendar day extension for response under paragraph 5(b) of the Rules. The Response was then due June 9, 2025. Complainant sent an email communication on June 5, 2025, commenting on the further extension request of Respondent. Respondent sent an email communication on June 6, 2025, maintaining its request

for a total extension until June 16, 2025. The Center, in accordance with paragraph 5(e) of the Rules granted an extension until June 11, 2025, for Response.

The Response was filed with the Center on June 11, 2025.

The Center appointed Frederick M. Abbott, Gerald M. Levine, and Steven Levy, as panelists in this matter on July 15, 2025. The Panel finds that it was properly constituted. Each member of the Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### **4. Preliminary Matter – Pending Litigation**

The Panel has decided to dismiss the Complaint and to terminate this proceeding because Complainant and Respondent are currently involved in related contentious litigation in the courts of the State of Tennessee, United States (see *Leiby Goldberger et al vs. Thomas Scott et al.*, Case No. 22-1256-BC, Chancery Court for Davidson County, Tennessee (complaint filed Sept. 21, 2022, Anne C. Martin, Chancellor), and; *Leiby Goldberger et al vs. Thomas Scott et al.*, No. M2022-01772-COA-R3-CV, Court of Appeals of Tennessee at Nashville (opinion filed July 9, 2024).

In Section 5 below, the Panel will provide factual background specifically regarding the trademark registration and disputed domain name that form the specific subject matter of the Complaint and Response. Notably, however, the parties to this dispute have been involved in several business ventures relating to franchising in various fields. The Panel excerpts here from the July 9, 2024, opinion of the Tennessee Court of Appeals (cited above) to provide context regarding the relationships among them:

Between October 2020 and June 2021, Lieby Goldberger and Thomas J. Scott formed four companies: Dryer Vent Squad Franchising, LLC; Frost Shades Franchising, LLC; Magnetainment Franchising, LLC; and Clozetivity Franchising, LLC (collectively, “the Franchising Entities”). A short time later, a third investor — Curt Swanson — joined as an equal member of each company. Mr. Goldberger, Mr. Scott, and Mr. Swanson then formed Home Based Franchise Group, LLC (“HBFG”), to serve as an “umbrella” company for the Franchise Entities. [n1: The parties dispute the exact nature of the relationship between HBFG and the Franchise Entities, but they agree that HBFG was to provide centralized administrative services to the Franchise Entities.]

All five companies were formed in Tennessee, and all five were to be member managed, but only HBFG had an operating agreement, denominated as its “Stockholders Agreement.” The Stockholders Agreement named Mr. Goldberger, Mr. Scott, and Mr. Swanson as the company’s “shareholders,” “directors,” and “officers,” with equal authority to conduct all business matters.

Mr. Scott was also the sole owner of a separate company, Brand Journalists, LLC, which provided IT and marketing services to HBFG and the Franchise Entities. ...

When Mr. Scott agreed to go into business with Mr. Goldberger and Mr. Swanson, he was purportedly unaware that both men were or had been defendants in two civil actions involving another franchisor, Patch Boys Franchising, LLC. See, e.g., *Anderson v. Patch Boys Franchising, LLC*, No. 0:19-ev-03119 (D. Minn. Dec. 19, 2019). Mr. Scott was also purportedly unaware that Patch Boys had settled two state regulatory actions arising out of Mr. Goldberger’s failure to comply with state franchise law. See, e.g., *In re Patch Boys Franchising*, No. 54957 (Minn. Dept. of Commerce June 30, 2021). Mr. Scott claims to have discovered these and other undisclosed legal matters in June 2022.

Shortly thereafter, Brand Journalists stopped providing services to HBFG and the Franchise Entities because of a payment dispute. The cessation of Brand Journalist’s services allegedly caused a disruption to the Franchise Entities’ operations. Mr. Goldberger and Mr. Swanson then voted to “remove” Mr. Scott from the management of the Franchise Entities and HBFG.

Then, in August 2022, Mr. Scott sued Mr. Goldberger and Mr. Swanson for conversion, defamation and false light invasion of privacy, civil conspiracy, and breach of their duties under the Tennessee Revised Limited Liability Act.

Less than a month later, Mr. Goldberger, Mr. Swanson, and HBFG ("Plaintiffs") commenced this action against Mr. Scott, [et al.]. Plaintiffs alleged, inter alia, that Mr. Scott damaged HBFG and the Franchise Entities by engaging in "wide-ranging activities," ...

Based on these and other allegations, Plaintiffs asserted claims against Mr. Scott for business disparagement; tortious interference with business relationships; breach of contract; breach of the duty of loyalty; and breach of the duty of care....

Plaintiffs then moved for a temporary injunction to prevent Mr. Scott from (a) "directly or indirectly disparaging or defaming Plaintiffs, including to their clients and contacts"; (b) "directly or indirectly interfering with Plaintiffs' business relationships and goodwill, including interfering with operations and property of Plaintiffs; and (c) "directly or indirectly assisting or offering to assist Plaintiffs' competitors."

Mr. Scott then filed a timely petition to dismiss the action...

After Mr. Scott filed his petition, Plaintiffs ... dismissed their claims against Mr. Scott for business disparagement, tortious interference with business relations, and inducement of breach of contract. Thus, the only remaining claims against Mr. Scott were for breach of contract and his duties of loyalty and care.

The above-quoted excerpt from the opinion of the Tennessee Court of Appeals addresses what appears to be the single remaining active litigation among the parties to this dispute, although the parties have not clarified the extent to which additional related litigation may be ongoing in other fora. Each party has referred to settlement negotiations regarding the ongoing Tennessee litigation, each providing the texts of the same email correspondence among counsel (dated April 25 and 26, 2023). Per that email correspondence, a final settlement offer from Respondent (in this proceeding) included its transfer of the disputed domain name to Complainant (in addition to providing a cash payment). These aspects appeared to be mutually acceptable to the parties, but a settlement agreement was not reached because Complainant indicated that it was unable to make a commitment on behalf of a third party that had initiated litigation against Respondent in a separate proceeding (and in a different state jurisdiction). The Panel references this correspondence regarding settlement to illustrate that the ultimate disposition of the disputed domain name appears most likely to be encompassed in a resolution of the larger complex business dispute among Complainant and Respondent.

## **5. Factual Background**

Complainant is a limited liability company (LLC) with its initial filing in the State of Tennessee on August 11, 2022. Complainant sells franchises for dryer vent cleaning services, among other service-related franchises.

Complainant is the listed owner of registration for the word service mark DRYER VENT SUPERHEROES on the Principal Register of the United States Patent and Trademark Office (USPTO), registration number 7348629, registration dated April 2, 2024, in international class (IC) 37, covering air duct cleaning services and dryer vent cleaning services. The application for registration of such trademark was filed on November 11, 2022. Complainant also is the listed owner at the USPTO of a word and design service mark registration incorporating the term DRYER VENT SUPERHEROES CLEAN DRYERS PREVENT FIRES, registration number 7348796, registration dated April 2, 2024, in IC 37, with application filed on December 27, 2022.

According to the Registrar's verification, Respondent is registrant of the disputed domain name. According to the Whois record, the disputed domain name was registered on November 15, 2022.

The facts and circumstances regarding Complainant's business relationship with Respondent, and the related timing of Complainant's decision to register the DRYER VENT SUPERHEROES service marks at the USPTO, are the subject of dispute between the parties. Likewise, the facts and circumstances regarding Respondent's registration and use of the disputed domain name, including the timing of the registration and the intent of its registration and use, are the subject of dispute between the parties.

## **6. Discussion**

It is the view of the Panel that the facts and circumstances regarding both sets of issues, that is: (1) those surrounding the legitimacy of Complainant's claim to ownership of the DRYER VENT SUPERHEROES service marks,<sup>1</sup> and: (2) Respondent's denial of abusive registration and use of the disputed domain name, including its potential rights or legitimate interests and absence of bad faith, are better addressed by the courts of the State of Tennessee where the parties are currently in litigation rather than before this UDRP Panel.

The UDRP was designed as a mechanism for resolving disputes in an expeditious manner based on the written pleadings of the parties, without provision for examination of witnesses, without authority to compel the production of evidence, and without authority to sanction parties or their counsel. The courts of the State of Tennessee have such capacities and authorities. They are better placed than this Panel to make an assessment and judgment regarding the disputed factual assertions of the parties and their legal consequences.

Moreover, the subject litigation in the State of Tennessee commenced nearly 3 years ago. A decision by this Panel might appear as an effort to preempt the authority of the courts of the State of Tennessee to adjudicate the relationship between the parties, including ownership of trademark rights and the disputed domain name, even though that would not be the Panel's intent. In any case, a decision by this Panel would not bind those courts.

This Panel could reach a decision on the law and facts in this proceeding if it was necessary to do so. This Panel, however, has concluded that it is not the appropriate forum under the circumstances. It defers to the courts of Tennessee.

For these reasons, the Panel hereby dismisses the Complaint and terminates this proceeding without judgment regarding the underlying factual or legal issues.

## **7. Reverse Domain Name Hijacking**

Respondent requested a finding of Reverse Domain Name Hijacking (RDNH) against Complainant. Complainant filed its Complaint in the context of efforts to resolve a set of disputes involving Respondent that include determining the legitimacy of registration and use of the disputed domain name. In the context of dismissing the Complaint and deferring resolution of this matter to the courts of the State of Tennessee, the Panel similarly defers any findings regarding the appropriateness of the filing of causes of action by either party, including this proceeding, to those courts. The Panel consequently rejects Respondent's request for a finding of RDNH.

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<sup>1</sup> The Panel does not purport to have the authority to direct the USPTO regarding ownership of rights in a trademark, nor does it suggest that a state court in the United States has the authority to direct the USPTO regarding the identity of the owner of a trademark. However, Complainant is a business entity (i.e., an LLC) established in the State of Tennessee and the courts of the State of Tennessee have the authority to determine whether a locally established business entity, e.g., Complainant, has acted lawfully, for example vis-à-vis Respondent. Hypothetically, a Tennessee court could direct Complainant to transfer its interest in its registered service marks to Respondent, or to reorganize itself in a way that allocated ownership interests to Respondent.

## **8. Decision**

For the foregoing reasons, the Complaint is denied, and Respondent's request for a finding of RDNH is denied.

*/Frederick M. Abbott/*

**Frederick M. Abbott**

Presiding Panelist

*/Gerald M. Levine/*

**Gerald M. Levine**

Panelist

*/Steven Levy/*

**Steven Levy**

Panelist

Date: July 23, 2025