



# CPR Institute for Dispute Resolution

File Number: CPR 0501  
Date of Commencement: January 12, 2005  
Domain Name: CHEVALCANADIEN.COM  
Registrar: Intercosmos Media Group, Inc.  
d/b/a DirectNIC.Com

## COMPLAINANT

Name: Canadian Horse Breeder's Association  
Address: 5 Rang 3 Gravel, Ferme Neuve, QC, Canada J0W 1C0  
Tel: 819-268-2037  
Fax: 819-258-2037  
E-mail: [aaucclair@telmilot.net](mailto:aaucclair@telmilot.net)

vs.

## RESPONDENT

Name: SMS Design+  
Address: 225 Ch Dunraven, L'ile Du Grand Calumet, QC, Canada J0X IJ0  
Telephone: 819-648-5531  
Fax: N/A  
E-mail: [smsdesign@sympatico.ca](mailto:smsdesign@sympatico.ca)

Before Thomas M. Pitegoff, Esq., Arbitrator

## PROCEDURAL HISTORY

The Complaint was filed with CPR Institute for Dispute Resolution (CPR) on January 12, 2005. After review for administrative compliance, CPR served the Complaint on Respondent. Respondent filed a timely Response on January 26, 2005. On February 15, 2005, CPR appointed me as Arbitrator pursuant to the Uniform Domain Name Dispute Resolution Policy (UDRP) and the Rules for UDRP (the "Rules") promulgated by the Internet Corporation for Domain Names and Numbers (ICANN).

Upon the written submitted record including the Complaint and its attachments and the Response and its attachments, I find as follows:

## FINDINGS

Respondent's domain name, CHEVALCANADIEN.COM, was registered with Intercosmos Media Group, Inc., d/b/a DirectNIC.Com, on October 26, 2001. In registering the name with Intercosmos Media Group, Inc., an ICANN accredited registrar, Respondent agreed to submit to this forum to resolve any dispute concerning the domain names, pursuant to the UDRP.

The UDRP provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent's domain name must be identical or confusingly similar to a trademark or service mark in which complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent's domain name has been registered and is being used in bad faith.

## IDENTITY/CONFUSING SIMILARITY

UDRP Paragraph 4(a)(i) calls for a finding that Respondent's domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

Complainant, the Canadian Horse Breeders Association (CHBA), contracted Respondent in August 2001 to create the initial CHBA website and to secure the domain name CHEVALCANADIEN.COM. Respondent alleges that Complainant never actually purchased the domain name from Respondent. This is an apparent contract dispute, not a dispute that can be resolved through domain name arbitration under the UDRP and the Rules. The first requirement of a domain name arbitration is not met in this case. The Respondent does not have or allege rights in a trademark that is identical or confusingly similar to the disputed domain name.

The term "cheval Canadien", which is the domain name in dispute without the ".com" extension, is French for the English term "Canadian horse". The French name of the CHBA is "Société des Éleveurs de Chevaux Canadiens". The word "chevaux" is the French plural of the French word "cheval", just as the word "horses" is the English plural of the English word "horse". Trademark rights in the plural term extend to the singular form of the same term. In order for this claim to succeed, the CHBA needs to have rights in the mark "Canadian Horse" or "Canadian Horses".

Complainant alleges that CHBA was founded in Canada in 1895 to promote the cause of the Canadian Horse breed. The CHBA was granted a Canadian federal charter and was incorporated under the Canadian Animal Pedigree Act. Its mandate is to monitor registration, identification and the keeping of the studbook for Canadian horses. It also looks after grading. Only members of the CHBA may register their Canadian horses

The fact that the CHBA is the exclusive entity that may register Canadian horses does not mean that it is the sole entity that may use the term "Canadian horse" or "Canadian horses". The fact that the term "Canadian Horse" is a part of the name of the entity does not, by itself, mean that the term is used as a trademark to designate the source of goods or services. In fact, the term "Canadian horse" is descriptive. As such, no person or entity may claim trademark rights in the term.

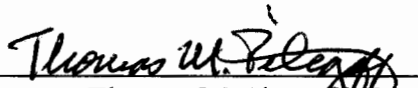
I therefore conclude that the registered domain name is not identical or confusingly similar to a trademark or service mark in which Complainant has rights.

### CONCLUSION

In light of my finding above that the registered domain name is not identical or confusingly similar to a trademark or service mark in which Complainant has rights, there is no need to decide whether Respondent has rights or legitimate interests with respect to the domain name at issue, or whether Respondent registered and used the domain name in bad faith, as that term is defined in the ICANN Policy. Accordingly, I find in favor of Respondent.

### REMEDY

Complainant's request to transfer the domain name CHEVALCANADIEN.COM is hereby DENIED.

  
\_\_\_\_\_  
Thomas M. Pitegoff, Esq.

February 24, 2005  
\_\_\_\_\_  
Date