



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

National Football League v. Peter Blucher d/b/a BluTech Tickets

Case No. D2007-1064

1. The Parties

The Complainant is National Football League, New York, New York, United States of America, represented by Debevoise & Plimpton, United States of America.

The Respondent is Peter Blucher d/b/a BluTech Tickets, Miami Shores, Florida, United States of America.

2. The Disputed Domain Names and Registrar)

The disputed domain names are: <superbowlxliiiipackages.com>, <superbowlxliiitours.com>, <superbowlxliipackages.com>, <superbowlxlipackages.com>, <superbowlxlitours.com>, <superbowlxlivpackages.com>, <superbowl41packages.com>, <superbowl41tours.com>, <superbowl42packages.com>, <superbowl42tours.com> <superbowl43packages.com>, <superbowl43tours.com>, <superbowl44packages.com> and <superbowl44tours.com>, all of which are registered with Go Daddy.com, Inc. (“Registrar”).

3. Procedural History

The Complaint was brought pursuant to the Uniform Domain Name Dispute Resolution Policy (the “Policy”), which was adopted by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on August 26, 1999, and approved on October 24, 1999, and in accordance with the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”) as approved on October 24, 1999, and the World Intellectual Property Organization Supplemental Rules for Uniform Domain Name Dispute Resolution Policy in effect as of December 1, 1999, (the “Supplemental Rules”).

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") in email form on July 18, 2007, and in hard copy form, along with accompanying Exhibits A-S, on July 20, 2007.

Pursuant to paragraph 4(d) of the Policy, the Complainant selected the Center as the ICANN approved administrative dispute resolution service provider to administer this proceeding. Through the Complaint, the Complainant requested a single-member panel.

After receiving the original Complaint, the Center, in accordance with paragraph 5 of the Supplemental Rules, verified that the Complaint complied with the formal requirements of the Rules and the Supplemental Rules. In that regard, on July 23, 2007, the Center requested confirmation from the Registrar as to whether the Registrar received a copy of the Complaint from the Complainant and to confirm contact and registrant information set forth in the Complaint relative to the disputed domain name. The Center also requested the Registrar to specify, for the domain name: (a) whether the Policy applies to that name, (b) whether the registrant has submitted, in its registration agreement, to the jurisdiction at the location of the principal office of the registrar for court adjudication of disputes concerning or arising from the use of that name, (c) the language of the registration agreement, and (d) whether that name will remain "locked" during the proceeding.

Subsequently, on July 23, 2007, the Registrar provided its response to the Center through which the Registrar specified name and contact information pertinent to each of the disputed domain names to the extent present in its WhoIS database, and confirmed that the Respondent is listed as the registrant for all the names. The response also confirmed that for each of the names: (a) GoDaddy.com, Inc. is the registrar, (b) the Registrant has submitted to jurisdiction at the location of the principal office of the Registrar for court adjudication and (c) the registration agreement is in English; and all the names will remain locked during the pendency of this proceeding.

The Center verified that the Complaint satisfied the formal requirements of the Policy, the Rules and the Supplemental Rules.

On August 3, 2007, the Center formally notified the Respondent, by email letter, of the filing of the Complaint, including an indication that the Center was forwarding a complete copy of the Complaint to the Respondent, together with all its Exhibits, by both courier and email. The Complaint and its accompanying documents, and all subsequent communications associated therewith, were provided in the preferred manners and to the addresses as mandated by paragraphs 2(a), 2(b) and 4(a) of the Rules.

Hence, the notification to the Respondent having occurred on August 3, 2007, under paragraph 4(c) of the Rules, this administrative proceeding is deemed to have commenced on that date.

Having reviewed the Complaint and all the correspondence, including that between the Center and the Registrar, the Panel agrees with the determination of the Center that the Complaint and its handling met the requirements of the Rules and the Supplemental Rules.

The Respondent was then provided with a 20 calendar day period, expiring on August 23, 2007, to file its Response with the Center and serve a copy of the Response on the Complainant.

As of August 24, 2007, the Center had not received a formal Response to the Complaint from the Respondent; hence, the Center, in an email letter August 24, 2007, notified the Respondent of his default.

Accordingly, pursuant to the Rules and Supplemental Rules, by email letter dated September 4, 2007, the Center contacted the undersigned, Mr. Peter L. Michaelson, requesting his service as a Sole Panelist for this dispute. Subsequently, on the same day, Mr. Michaelson accepted and returned, by facsimile to the Center, a fully executed Statement of Acceptance and Declaration of Impartiality and Independence. The Panel finds that it was properly constituted. The Center, through an email letter dated September 10, 2007, notified the Parties of the appointment of Mr. Michaelson as Sole Panelist.

Based on the deadline set forth in paragraph 15 of the Rules, a decision was to be issued by the Panel to the Center on or before September 24, 2007.

This dispute concerns fourteen domain names, specifically:
<superbowlxliiipackages.com>, <superbowlxliiitours.com>,
<superbowlxliipackages.com>, <superbowlxlipackages.com>,
<superbowlxlitours.com>, <superbowlxlivpackages.com>,
<superbowl41packages.com>, <superbowl41tours.com>,
<superbowl42packages.com>, <superbowl42tours.com> <superbowl43packages.com>,
<superbowl43tours.com>, <superbowl44packages.com> and <superbowl44tours.com>.

The language of this proceeding is English.

4. Factual Background

A copy of the WhoIS registration records for all the disputed domain names appears in Exhibit A to the Complaint. As indicated on these records, the following names were all registered on September 27, 2006: <superbowlxliiipackages.com>,
<superbowlxliiitours.com>, <superbowlxliipackages.com>,
<superbowlxlivpackages.com>, <superbowl42packages.com>,
<superbowl42tours.com>, <superbowl43packages.com>, <superbowl43tours.com>,
<superbowl44packages.com> and <superbowl44tours.com>; on January 24, 2006:
<superbowl41packages.com>; on January 18, 2006: <superbowl41tours.com>; and
on September 27, 2005: <superbowlxlipackages.com> and <superbowlxlitours.com>.

A. Complainant's SUPER BOWL Marks

The Complainant owns four United States trademark registrations and over fifty counterpart foreign trademark registrations for the term SUPER BOWL in block letters and on which this dispute is based. The Complainant has provided, in Exhibit E to the Complaint, a copy of the US registration certificate for each of its marks and the accompanying entries for that mark from the public web-accessible Trademark Electronic Search System (TESS) and the Trademark Applications and Registrations Retrieval (TARR) databases provided by the US Patent and Trademark Office (PTO). Pertinent details of these registrations are as follows:

1. SUPER BOWL
United States registration 3,138,590; registered: September 5, 2006 filed:
August 9, 2005.

This mark is registered for use in connection with “football helmets, cell phone covers, cell phone straps, special holsters and accessories in connection thereof for carrying cellular telephones, cell phone face plates, decorative magnets, prerecorded compact discs, audio tapes, videotapes and DVDs all featuring the sport of football, computer mouse pads”, all in international class 9; “jewelry, watches, clocks, pins, earrings, necklaces, bracelets, belt buckles made primarily of precious metals, charms, money clips made primarily of precious metals, tie pins, rings, collectible coins, commemorative coins”, all in international class 14; “posters, trading cards, series of books relating to football, magazines relating to football, newsletters relating to football, notepads, stickers, bumper stickers, paper pennants and greeting cards, printed tickets to sports games and events, pens and pencils, rub on decorative transfers, note paper, pictorial prints, picture postcards, art pictures, wrapping paper, paper table cloths, paper napkins, paper party invitations, paper gift cards, paper gift bags, paper decorations, collectible cards; collectible card and memorabilia holders, souvenir programs for sports events” all in international class 16; and “toys and sporting goods, namely plush toys, stuffed animals, play figures, golf balls, golf club covers, footballs, toy banks, playing cards, Christmas tree ornaments, balloons, jigsaw puzzles, miniature helmets” all in international class 28. The registration certificate states that both first use and first use in commerce of this mark, when used in conjunction with the goods in classes 16 and 28, commenced as of January 1, 1975, and in classes 9 and 14 commenced as of January 1, 1980.

2. SUPER BOWL

United States registration 2,954,420; registered: May 24, 2005
filed: January 29, 2004

This mark is registered for use in connection with “men's, women's and children's clothing, namely, fleece tops and bottoms, caps, headwear, t-shirts, sweatshirts, shorts, tank tops, jeans, sweaters, pants, jackets, turtlenecks, jumpsuits, golf shirts, woven shirts, knit shirts, jerseys, wristbands, warm up suits, wind resistant jackets, raincoats, parkas, ponchos, gloves, ties, suspenders, cloth bibs, sleepwear, namely, robes, night shirts and pajamas, mittens, knit hats and caps, scarves, aprons, headbands, ear muffs, underwear, sneakers and slippers”, all in international class 25. The registration certificate states that both first use and first use in commerce of this mark, when used in conjunction with these services, commenced as of January 30, 1971.

3. SUPER BOWL

United States registration 882,283; registered: December 9, 1969
renewed: November 27, 1989
filed: March 7, 1969

This mark is registered for use in connection with “entertainment services in the nature of football exhibitions” in international class 41. The registration certificate states that both first use and first use in commerce of this mark, when used in conjunction with these services, commenced as of January 15, 1967.

4. SUPER BOWL

United States registration 846,056
registered: March 12, 1968 on the Supplemental Register
renewed: March 12, 1988 on the Supplemental Register
filed: December 19, 1966
Amended on December 20, 1967 to the Supplemental register

This mark is registered for use in connection with “equipment (or apparatus) sold as a unit for playing a football-type board game” in international class 28. The registration certificate states that both first use and first use in commerce of this mark, when used in conjunction with these goods, commenced as of December 6, 1966.

B. The Complainant

The Complainant, The National Football League (NFL), is an unincorporated association of 32 member clubs, each of which owns and operates a professional football team. For over 80 years, the NFL and its member clubs have provided entertainment to sports fans worldwide in the form of professional American football games. NFL football is, and for many years has been, one of the most popular spectator sports in the United States. The NFL has televised live broadcasts of its football games on American television since 1939.

The SUPER BOWL football game is usually among the highest-rated of all television programs in the United States of America, if not the highest rated such program. According to press reports, the SUPER BOWL game held on February 4, 2007 in South Florida (SUPER BOWL XLI (41)) was the third most-watched television program ever in the United States of America with an average US viewing audience of more than 93 million people. See the web article “Super Bowl Draws Third-Largest TV Audience Ever”, a copy of which appears in Exhibit D to the Complaint). In addition, since the first SUPER BOWL game in 1967 (Super Bowl I (1)), the SUPER BOWL game and related festivities have attracted large crowds of fans and tourists, with the attendance at SUPER BOWL XLI having been 74,512. Thousands more individuals travel to the host city of any SUPER BOWL game to attend events surrounding the game without actually attending the game itself.

The Complainant’s advertising, promotional and marketing efforts in connection with the SUPER BOWL game have resulted in widespread public acceptance and recognition for that game and its associated events and exhibitions.

The Complainant's website for its SUPER BOWL game is located at “www.superbowl.com”. The Complainant registered that domain name on December 23, 1995. In addition to providing extensive information about that game, the website also provides information about official related activities and event sponsors. A hard-copy printout of the home page of that website appears in Exhibit F to the Complaint.

The Complainant also operates a service called “NFL ON LOCATION” which provides SUPER BOWL packages for corporate groups. These packages include tickets, accommodations and “NFL Extras” with those “extras” including admission to special events, parking and gift bags. Exhibit G to the Complaint provides hard-copy screenshots of the home pages of the NFL ON LOCATION website for Super Bowl XLI game and for the upcoming Super Bowl XLII game.

The Complainant authorized the SUPER BOWL XLI game host committee to operate an official fan reservation service for that game. As indicated by the home page of the website for this committee - a copy of that page appears in Exhibit H to the Complaint, this service provided lodging to individuals and groups that came to the South Florida area for this game. Similarly, and as indicated by a copy of a corresponding home page provided in Exhibit I to the Complaint, the host committee for the upcoming SUPER BOWL XLII game in Arizona is offering an

official fan reservation service which will provide hotel accommodations to individuals and groups coming to the Arizona area for that particular game.

C. The Respondent

Without authorization from the Complainant, the Respondent, on September 27, 2005, registered the disputed domain name <superbowlxlipackages.com>. Any Internet user who enters that name will reach the Respondent's website.

Until the occurrence of the SUPER BOWL XLI game on February 4, 2007, the Respondent's website was apparently directed to selling tour packages (such as a game ticket and hotel package) to that game - as shown in Exhibit J to the Complaint by a hard-copy printout of the home page of the Respondent's website as it then existed. The name of the Respondent's business was prominently shown as "Super Bowl XLI Tours, Inc." Moreover, two football helmets with the official AFC (American Football Conference) and NFC (National Football Conference) logos and an image of the Vince Lombardi trophy were featured on the Respondent's website.

D. Interactions between the Parties, the Respondent's further activities

On September 6, 2006, the Complainant's in-house counsel sent a letter to the Respondent objecting to his use of the Complainant's marks and the disputed domain name <superbowlxlipackages.com> (a copy of this letter appears in Exhibit K to the Complaint). That letter was returned to the Complainant unopened. Subsequently, that counsel telephoned the Respondent and, during that conversation, obtained the Respondent's correct mailing address. The Complainant in a follow-up letter to the Respondent dated September 19, 2006 (a copy of which appears in Exhibit L to the Complaint) enclosed a copy of its September 6th letter.

On September 29, 2006, the Respondent, responded by letter to the Complainant - a copy of that letter appears in Exhibit M to the Complaint - stating that he deleted the image of the Lombardi Trophy from his site and that he was "in the process of transferring" the <superbowlxlipackages.com> domain name to the Complainant. No subsequent transfer of that domain name ever occurred. Other than the removing the image of the Lombardi Trophy from his site, the Respondent made no other apparent changes to that site (see a hard-copy printout in Exhibit N to the Complaint of the home page of that site at it then existed). By e-mail message dated October 12, 2006 (a copy of which appears in Exhibit O to the Complaint), the Complainant reiterated its demand that Respondent transfer the domain name and cease using the Complainant's marks. No response was then forthcoming.

On November 14, 2006, Complainant's outside counsel sent another cease and desist letter (a copy of which appears in Exhibit P to the Complaint) to the Respondent. By this point in time, the Complainant learned that Respondent also had registered, without authorization from the Complainant, the domain names <superbowlxlitours.com>, <superbowl41tours.com> and <superbowl41packages.com>, each of which directed Internet users to the Respondent's website located at <superbowlxlipackages.com>. The November 14th letter demanded transfer of all four of those names to the Complainant.

In a responding letter dated on or about December 21, 2006 - a copy of which appears in Exhibit Q to the Complaint, the Respondent merely claimed that he had removed "all NFL related items" from his website. That letter did not mention any of the four domain names then at issue.

Subsequently, the Complainant learned that, back on September 27, 2006, the Respondent had registered the ten remaining disputed domain names, namely: <superbowlxliipackages.com>, <superbowlxliiipackages.com>, <superbowlxlivpackages.com>, <superbowlxliitours.com>, <superbowl42packages.com>, <superbowl43packages.com>, <superbowl44packages.com>, <superbowl42tours.com>, <superbowl43tours.com> and <superbowl44tours.com>. All the disputed domain names, with the exception of <superbowl41packages.com> (in that regard, see Exhibit R to the Complaint for a web page resolution error message), currently resolve to the Respondent's website located at <superbowlxliipackages.com>.

On or about February 7, 2007 (a few days after SUPER BOWL XLI game), the Respondent's website was changed to a page promoting "Blu-Tech Tickets" and advertising upcoming concerts (for example, for John Mayer and Gwen Stefani) and shows (such as The Lion King). See Exhibit S in the Complaint for a hard-copy printout of the home page and several lower level pages of that site as it then existed.

5. Parties' Contentions

A. Complainant

(i) Identical or Confusingly Similar

The Complainant contends that each of the disputed domain names is confusingly similar to the Complainant's SUPER BOWL Marks.

Specifically, the Complainant contends that the differences between each such name and the marks is that each domain name contains, as a suffix, a specific number, whether in Arabic or Roman numeral notation, followed by a generic term "packages" or "tours", all of which are insufficient to adequately distinguish each such name from the marks and thus preclude confusion of Internet users.

Further, the Complainant contends that, given the similarity of the names to the marks, confusion is even more likely to occur in light of the ongoing activities of the Complainant's NFL ON LOCATION service and the SUPER BOWL host committee's fan reservation service -- for which the Respondent appears to provide directly competitive services through his website. Consequently, any of the disputed domain names by virtue of its inclusion of the mark SUPER BOWL will convey to Internet users that the Respondent's associated website, as well as the services offered there through, is affiliated with or authorized by the Complainant or the host committee, when in fact it is not.

Hence, the Complainant believes that, for each of these names, it has satisfied the confusing similarity/identity requirement in paragraph 4(a)(i) of the Policy.

(ii) Rights or Legitimate Interests

The Complainant contends that the Respondent has no rights or legitimate interests in any of the disputed domain names pursuant to paragraph 4(a)(ii) of the Policy.

First, the Complainant states that there is no relationship of affiliation between it and the Respondent that gave rise to any license, permission or other right through which

the Respondent could own or use any domain name which incorporates the Complainant's SUPER BOWL Marks.

Second, the Complainant contends that the Respondent, in choosing to incorporate the Complainant's mark SUPER BOWL in each of the disputed domain names and then using that name to resolve to a commercial website, is trading off the Complainant's goodwill and fame. Such use does not constitute a *bona fide* offering of goods or services. Consequently, the Respondent's use of each name does not qualify under paragraph 4(c)(i) of the Policy.

Third, the Complainant alleges that the Respondent is not commonly known by any of the names - given his business name as "Blu-Tech Tickets" or "Blu-Tech Company", and is not making a legitimate noncommercial or fair use of any such name without intent for commercial gain to misleadingly divert consumers, thus, failing to qualify under either of paragraphs 4(c)(ii) or 4(c)(iii) of the Policy.

(iii) Registered and Used in Bad Faith

The Complainant contends, for several reasons, that the Respondent registered and is now using each of the disputed domain names in bad faith under paragraph 4(a)(iii) of the Policy.

First, the Complainant alleges that the Respondent registered each of these names to intentionally confuse Internet users and exploit that confusion by diverting Internet users, who, by virtue of the inclusion of the mark SUPER BOWL in the name, expect to reach a website authorized by or affiliated with the Complainant, but are diverted to the Respondent's commercial site instead where the Respondent, for its own commercial benefit, offers tickets and other packages involving the Complainant's SUPER BOWL games as well as SUPER BOWL related services that directly compete with those provided by entities authorized by Complainant. This constitutes bad faith under paragraphs 4(b)(iii) and 4(b)(iv) of the Policy.

Second, the Complainant contends that the Respondent knew of the Complainant's mark SUPER BOWL prior to registering each of the disputed names. Yet, in spite of that knowledge, the Respondent registered those names, hence establishing a pattern of abusive registrations which aim to prevent the Complainant from reflecting its SUPER BOWL Mark in a corresponding domain name, thus evidencing bad faith under paragraph 4(b)(ii) of the Policy.

Third, although the disputed domain name <superbowl41packages.com> does not resolve to the Respondent's website, nevertheless the Respondent has made no use of that name since it was registered on January 18, 2006, thus reflecting passive holding which, under the circumstances here, amounts to bad faith under paragraph 4(b) of the Policy.

B. Respondent

The Respondent failed to file any Response to the allegations raised in the Complaint.

6. Discussion and Findings

In view of the lack of a Response filed by the Respondent as required under paragraph 5 of the Rules, this proceeding has proceeded by way of default. Hence,

under paragraphs 5(e), 14(a) and 15(a) of the Rules, the Panel is directed to decide this administrative proceeding on the basis of the Complainant's undisputed representations.

A. Identical or Confusingly Similar

The Panel finds that each of the disputed domain names is confusingly similar to the Complainant's SUPER BOWL Marks.

From a simple comparison of each name to the marks, no doubt exists that all the disputed domain names are, for all practical purposes, confusingly similar to the SUPER BOWL Marks. The only differences between each name and the mark SUPER BOWL is the addition of a number and a generic word "tours" or "packages", collectively as a suffix, and the appending of a gTLD (generic top level domain) ".com" to the mark – with the latter being totally irrelevant in assessing confusing similarity or identity under paragraph 4(a) of the Policy and thus ignored.

It is now very well-established in UDRP precedent, including numerous decisions previously rendered by this Panel, that minor variations, such as adding short letter or number groups or even generic words to a mark, are each insufficient in and of itself, when used in forming a domain name that results from modifying the mark, to confer requisite and sufficient distinctiveness to that name to avoid user confusion. Adding a number, whether in Arabic or Roman numerals, and/or a generic word "tours" or "packages" to the mark SUPER BOWL are clearly such minor variations. See, e.g., *Toilets.com, Inc. v. Rons Porta Johns*, WIPO Case No. D2007-0952 (August 27, 2007); *Associated Bank Corp. v. Texas International Property Associates*, WIPO Case No. D2007-0334 (June 28, 2007); *Gerber Childrenswear Inc. v. David Webb*, WIPO Case No. D2007-0317 (April 24, 2007); *SPX Corp. v. Hevun Diversified Corp.*, NAF Case No. FA791657 (November 13, 2006); *Google Inc. v. Burns*, NAF Case No. FA 726096 (August 16, 2006); *The Cheesecake Factory Inc. and The Cheesecake Factory Assets Co., LLC v. Say Cheesecake*, WIPO Case No. D2005-0766 (September 12, 2005); *Napster, Inc. v. Vinscani*, WIPO Case No. D2005-0531 (July 19, 2005); *Caesars Entertainment Inc. v. Nova Internet Inc.*, WIPO Case No. D2005-0411 (June 22, 2005); *Lockheed Martin Corporation v. The Skunkworx Custom Cycle*, WIPO Case No. D2004-0824 (January 18, 2005); *Lockheed Martin Corp. v. Deborah Teramani*, WIPO Case No. D2004-0836 (December 1, 2004); and *National Collegiate Athletic Assoc. v. Dusty Brown*, WIPO Case No. D2004-0491 (August 30, 2004); *Lane-Labs USA, Inc. v. Powell Productions*, NAF Case No. FA 155896 (July 1, 2003); and *Cable News Network LP, LLP v. Elie Khouri d/b/a Channel News Network et al.*, NAF Case No. FA 117876 (December 16, 2002). While a sufficient number of variations or even one such significant variation itself made to a mark may suffice, under a specific factual situation, to impart requisite distinctiveness to a resulting domain name and there through dispel user confusion (see, e.g., *Citgo Petroleum Corporation v. Richard Antinore*, WIPO Case No. D2006-1576 (March 14, 2007); and *CP Films, Inc. v. Solar Lunar Performance Film*, NAF Case No. FA861127 (February 6, 2007)), such is clearly not the case here when both each of the names at issue and the marks are viewed, as they must, in their entirety with respect to each other.

Such confusion, should it occur, would undoubtedly cause Internet users intending to access Complainant's website, but who were to reach the Respondent's site instead, to think that an affiliation of some sort exists between the Complainant and its affiliates and the Respondent, when, in fact, no such relationship would exist at all. See, e.g., *Google Inc. v. Jennifer Burns*, NAF Case No. FA 726096 (August 16, 2006);

Cheesecake Factory, Napster, Caesars Entertainment, Lockheed v. Skunkworx, and Lockheed v. Teramani, all cited *supra*; see also *Register.com, Inc. v. Reile*, NAF Case No. FA 208576 (January 27, 2004); *Caesars World, Inc. and Park Place Entertainment Corp. v. Japan Nippon*, WIPO Case No. D2003-0615 (September 30, 2003); *Leiner Health Services Corp. v. ESJ Nutritional Products*, NAF Case No. FA 173362 (September 16, 2003); *American Family Life Assurance Company of Columbus v. defaultdata.com aka Brian Wick*, NAF Case No. FA 123896 (October 14, 2002); *AT&T Corp. v. Abreu*, WIPO Case No. D2002-0605 (Sept. 11, 2002); *L.F.P., Inc. v. B and J Properties*, NAF Case No. FA 109697 (May 30, 2002); *Peter Frampton v. Frampton Enterprises, Inc.*, WIPO Case No. D2002-0141 (April 17, 2002); *Spence-Chapin Services to Families and Children v. Stanley Wynman*, NAF Case No. FA 100492 (December 10, 2001); *Meijer, Inc. v. Porksandwich Web Services*, NAF Case No. FA 97186 (July 6, 2001); *MPL Communications, Limited et al v. IWebAddress.com*, NAF Case No. FA 97092 (June 4, 2001); *American Home Products Corporation v. Malgioglio*, WIPO Case No. D2000-1602 (February 19, 2001); *Surface Protection Industries, Inc. v. The Webposters a/k/a Mark's Paint Store, Inc.*, WIPO Case No. D2000-1613 (February 5, 2001); *Dollar Financial Group, Inc. v. VQM NET*, NAF Case No. FA 96101 (January 25, 2001); *eBAY Inc. v. G L Liadis Computing, Ltd. and John L. Liadis d/b/a G L Liadis Computing Ltd.*, WIPO Case No. D2000-1463 (January 10, 2001); *Treeforms, Inc. v. Cayne Industrial Sales Corp.*, NAF Case No. FA 95856 (December 18, 2000); *Pep Boys Manny, Moe and Jack of CA v. E-Commerce Today, Ltd.*, e Resolution Case No. AF-0145 (May 3, 2000).

Moreover, this Panel firmly believes that here the Respondent's use of the mark SUPER BOWL when followed by a number and either the generic word "tours" or "package" only serves to exacerbate, rather than diminish, that confusion. This is plainly evident given the substantial recognition, notoriety and fame now enjoyed by Complainant's SUPER BOWL Marks, of which this Panel takes judicial notice, and particularly so since the Complainant over many years - certainly commencing well before the earliest date of September 27, 2005 on which the Respondent registered some of the disputed domain names - has routinely used and continues to use its mark SUPER BOWL followed by a number when referring to each one of its football games.

Therefore, the Panel finds that each of the disputed domain names is confusingly similar to the Complainant's SUPER BOWL Marks as to cause confusion; hence, the Complainant has satisfied its burden under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

By virtue of its default, the Respondent has not provided any basis that, under the circumstances here, would legitimize a claim to any of the disputed domain names under paragraph 4(c) of the Policy.

No evidence exists of record that the Complainant has ever authorized the Respondent to utilize its SUPER BOWL Marks or any mark confusingly similar thereto in conjunction with the goods and services which the Complainant and its affiliates, such as the SUPER BOWL host committee, uses those marks, nor does the Complainant or its affiliate apparently have any relationship or association whatsoever with the Respondent. As such, any use to which the Respondent were to put the SUPER BOWL Marks or one confusingly similar thereto in connection with the identical or similar goods and services to those currently provided by the Complainant and its affiliates under the SUPER BOWL Marks would violate the exclusive trademark rights now residing in the Complainant. See, e.g., *Toilets.com, Inc.*, cited *supra*; *Associated Bank*,

cited *supra*; *GoDaddy.com, Inc., v. GoDaddysDomain.com, Clark Signs, Graham Clark*, WIPO Case No. D2007-0303 (May 7, 2007); *Citgo Petroleum Corporation v. Richard Antinore*, WIPO Case No. D2006-1576 (March 14, 2007); *New Destiny Internet Group, LLC and Xplor Media, Inc. v. SouthNetworks*, WIPO Case No. D2005-0884 (October 14, 2005); *The Cheesecake Factory Inc., Napster and Caesars Entertainment, Inc.*, all cited *supra*; *Pelmorex Communications Inc. v. weathernetwork*, WIPO Case No. D2004-0898 (December 28, 2004); *Sybase, Inc. v. Analytical Systems*, WIPO Case No. D2004-0360 (June 24, 2004); *Caesars World, Inc. and Park Place Entertainment Corporation v. Japan Nippon*, WIPO Case No. D2003-0615 (September 30, 2003); *Leiner Health Services Corp. v. ESJ Nutritional Products*, NAF Case No. FA 173362 (September 16, 2003); *AT&T Corp. v. Roman Abreu d/b/a Smartalk Wireless*, cited *supra*; *MPL Communications, Limited et al v. IWebAddress.com*, NAF Case No. FA 97092 (June 4, 2001); *America Online, Inc. v. Xianfeng Fu*, WIPO Case No. D2000-1374 (December 11, 2000); and *Treeforms*, cited *supra*. Consequently, the United States of America - located Respondent could not legally acquire any public association between it and any of the SUPER BOWL Marks or one similar thereto, at least for the goods and services rendered by the Complainant, including its affiliates, or those similar thereto. Hence, based on the evidence before the Panel, the Respondent does not fall within paragraph 4(c)(ii) of the Policy.

Further, there is absolutely no evidence of record that the Respondent has ever been commonly known by any of the domain names. Nor could the Respondent in this case ever become so known, in light the Complainant's continuous use of its mark SUPER BOWL for nearly 40 years prior to the earliest date (September 27, 2005) on which the Respondent registered some of the names, without infringing on the exclusive trademark rights of the Complainant. See, *Treeforms, Inc.*, cited *supra*.

Moreover, since Respondent's use of the names, which intentionally infringes the Complainant's trademark rights, does not constitute a *bona fide* use and is unquestionably commercial in nature, Respondent's conduct does not fall within paragraphs 4(c)(i) or 4(c)(iii) of the Policy either.

Accordingly, the Panel concludes that the Respondent has no rights or legitimate interests in any of the disputed domain names within paragraph 4(a)(ii) and 4(c) of the Policy.

C. Registered and Used in Bad Faith

The Panel believes that the Respondent's actions constitute bad faith registration and use of all of the disputed domain names.

In light of no evidence to the contrary, the Panel infers, based on the record and the default of the Respondent, that the Respondent was well aware of the Complainant and its mark SUPER BOWL when the Respondent registered each of the disputed domain names. Yet, in spite of that knowledge, the Respondent intentionally chose and registered each of those names to opportunistically exploit its potential to generate user confusion, for the Respondent's eventual pecuniary benefit and to the Complainant's ultimate detriment.

Moreover, nothing exists on the Respondent's website which would lead any Internet user to reasonably infer other than that a connection, affiliation or relationship of some sort likely exists between the Respondent's website and the Complainant – when, in actuality, none exists. Thus, the Respondent's use of the names is highly likely to

confuse, if not actually deceive, Internet users who visit that site but do so with the intention of visiting the Complainant's site instead. See *Toilets.com, Inc.* and *Associated Bank*, both cited supra; *Christian Dior Couture v. Alex Roché*, WIPO Case No. DTV2007-0004 (June 15, 2007) and *Gerber Childrenswear*, cited supra.

The evidence of record indicates that, while 13 of the 14 disputed domain names each resolves to the Respondent's website at "www.superbowlxlipackages.com", one name <superbowl41packages.com> does not and is apparently not yet in use. Nevertheless, the Panel infers from the lack of any Response and the nearly identical nature of this remaining name to some of those that are already in use, with the sole difference being the number 41 rather than 42, 43 or 44 (ignoring whether that number is in Arabic or Roman numeral notation - a difference without any significance here), that the Respondent, given the pattern of his actions, had every intention of so using this remaining name in the same exact fashion as he did with each of the 13 names now in use but for reasons unknown has not yet done so. The fact that the Respondent has been passively holding that one name for nearly two years since its registration on September 27, 2005 rather than actually using it is of no consequence, as the Panel views this passive holding as evidencing bad faith use and registration to the same extent as if the Respondent actually used that name in the same fashion as he had used the others.

Hence, the Panel concludes that the Respondent violated paragraph 4(a)(iii) of the Policy and specifically paragraph 4(b)(iv) thereof.

Thus, the Panel concludes that the Complainant has provided sufficient proof of its allegations, with respect to all the disputed domain names, to establish a case under paragraph 4(a) of the Policy upon which the relief it now seeks can be granted.

7. Decision

Accordingly, under paragraphs 4(i) of the Policy and 15 of the Rules, the Panel grants the relief sought by the Complainant.

All the disputed domain names, <superbowlxliiipackages.com>, <superbowlxliiitours.com>, <superbowlxliipackages.com>, <superbowlxlipackages.com>, <superbowlxlitours.com>, <superbowlxlivpackages.com>, <superbowl41packages.com>, <superbowl41tours.com>, <superbowl42packages.com>, <superbowl42tours.com>, <superbowl43packages.com>, <superbowl43tours.com>, <superbowl44packages.com> and <superbowl44tours.com>, are ordered transferred to the Complainant.

Peter L. Michaelson
Sole Panelist

Dated: September 24, 2007