

September 18, 2007

**By Certified Mail - Return Receipt Requested  
and By E-mail: [domaindispute@adrforum.com](mailto:domaindispute@adrforum.com)**

National Arbitration Forum  
P. O. Box 50191  
Minneapolis, Minnesota 55405

Re: Case No. FA0709001075486  
Domain Name In Dispute - brahmakumaris.info

Dear Sir or Madam:

Enclosed are the original Second Amended Complaint In Accordance With The Uniform Domain Name Dispute Resolution Policy (with exhibits), and two copies of the Second Amended Complaint in Accordance With The Uniform Domain Name Dispute Resolution Policy (without exhibits, per Michelle Schaber's email dated September 17, 2007) and the transmittal cover sheet that are being submitted by Complainant Brahma Kumaris World Spiritual Organization in connection with the above-referenced matter.

By copy of this letter and the enclosed, Respondent is being notified  
of this filing,

Thank you for your assistance in this matter, and if you have any questions, please do not hesitate to call.

Very truly yours,



Kelly R. McCarty

KRM/jmr

Enclosures

National Arbitration Forum  
Page 2  
September 18, 2007

cc:

**Respondent:**

**Registrar:**

GoDaddy.com, Inc.  
14455 North Hayden Road, Suite 219  
Scottsdale, Arizona 85260

**By first class mail and by email to:** [TrademarkClaims@godaddy.com](mailto:TrademarkClaims@godaddy.com)

Domains By Proxy, Inc.  
15111 North Hayden Road, Suite 160, PMB 353  
Scottsdale, Arizona 85260

**By first class mail and by email to:** [generalmanager@domainsbyproxy.com](mailto:generalmanager@domainsbyproxy.com)

Mr. Dustin J. Edwards [*Firm*]

Ms. Jessica M. Ramirez, IP Paralegal [*Firm*]

## Complaint Transmittal Cover Sheet

**To:** Respondent  
**From:** Brahma Kumaris World Spiritual Organization, Complainant  
**Cc:** National Arbitration Forum  
**Date:** September 18, 2007  
**Re:** Case No. FA0709001075486  
Domain in dispute: brahmakumaris.info

---

The attached Second Amended Complaint is being filed against you with the National Arbitration Forum (the "Forum") pursuant to the Uniform Domain Name Dispute Resolution Policy (the "Policy") adopted by the Internet Corporation for Assigned Names and Numbers ("ICANN") on October 24, 1999 and incorporated in your Registration Agreement with the Registrar of your domain name(s). By submitting this Complaint to the Forum, the Complainant agrees to abide and be bound by the provisions of the Policy, the ICANN Rules, and the Forum's Supplemental Rules.

**Until you are notified by the Forum that a proceeding has commenced, you have no duty to act with regard to this Complaint.**

- The Forum will examine the Complaint to determine whether it conforms to the ICANN Policy, Rules, and the Supplemental Rules.
- If the Complaint conforms to those standards, the Forum will forward an official copy of the Complaint to you.
- *Once the official Complaint is forwarded to you, you will have twenty (20) calendar days to submit a Response to both the Forum and the Complainant in accordance with the Policy, Rules, and Supplemental Rules.*
- You may seek legal assistance to represent you in this administrative proceeding.

The Policy and Rules governing this proceeding can be found at:

ICANN Policy <http://www.icann.org/udrp/udrp-policy-24oct99.htm>  
ICANN Rules <http://www.icann.org/udrp/udrp-rules-24oct99.htm>  
Forum Supplemental Rules  
<http://domains.adrforum.com/main.aspx?itemID=631&hideBar=False&navID=237&news=26>

Alternatively, you may contact the Forum to obtain any of the above documents.

Telephone: (800) 474-2371 or (952) 516-6400  
E-mail: [domaindispute@adrforum.com](mailto:domaindispute@adrforum.com)

***Please provide the Forum with the contact information (mailing address, e-mail address, telephone number) where the official Complaint and other communications in the administrative proceeding should be sent.***

NATIONAL ARBITRATION FORUM  
P. O. Box 50191  
Minneapolis, Minnesota 55405

**Brahma Kumaris World Spiritual Organization** )  
710 Marquis )  
San Antonio, Texas 78216 )

**Complainant,** )

v. )

**Respondent.** )

**Case No. FA0709001075486**

**Domain Name in Dispute:**  
**brahmakumaris.info**

**SECOND AMENDED COMPLAINT IN ACCORDANCE WITH  
THE UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY**

[1.] This Complaint is hereby submitted 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 (ICANN Policy), and the Rules for Uniform Domain Name Dispute Resolution Policy (ICANN Rules), adopted by ICANN on August 26, 1999, and approved by ICANN on October 24, 1999, and the National Arbitration Forum (NAF) Supplemental Rules (Supp. Rules). ICANN Rule 3(b)(i).

[2.] **COMPLAINANT INFORMATION**

[a.] Name: Brahma Kumaris World Spiritual Organization  
[b.] Address: 710 Marquis, San Antonio, Texas 78216  
[c.] Telephone: 210.344.8343  
[d.] Fax: 210.344.8343 (by request)  
[e.] E-mail: sanantonio@us.bkwsu.org

**Complainant's Authorized Representative:**

[a.] Name: Kelly R. McCarty, Esq.; Dustin J. Edwards, Esq.  
[b.] Address: 1111 Louisiana Street, 25th Floor, Houston, Texas 77002  
[c.] Telephone: 713.787.1400  
[d.] Fax: 713.787.1440  
[e.] E-mail: mccartyk@howrey.com; edwardsdustin@howrey.com

The Complainant's preferred method for communications directed to the Complainant in the administrative proceeding is:

**Electronic-Only Material:**

- [a.] Method: E-mail
- [b.] Address: mccartyk@howrey.com
- [c.] Contact: Kelly R. McCarty, Esq.

**Material Including Hard Copy:**

- [a.] Method: First class U.S. mail or facsimile
- [b.] Address: 1111 Louisiana Street, 25th Floor, Houston, Texas 77002
- [c.] Fax: 713.787.1440
- [d.] Contact: Kelly R. McCarty, Esq.

The Complainant chooses to have this dispute heard before a single-member panel.

[3.] **RESPONDENT INFORMATION**

[4.] **DISPUTED DOMAIN NAME**

- [a.] The following domain name is the subject of this Complaint:

<brahmakumaris.info>

- [b.] **Registrar Information:**

- [i] Registrar's Name: GoDaddy.com, Inc.
- [ii] Registrar Address: 14455 North Hayden Road, Suite 219  
Scottsdale, Arizona 85260
- [iii] Telephone Number: 480.505.8899
- [v] E-Mail Address: TrademarkClaims@godaddy.com

- [c.] **Mark Information:**

Complainant is the owner of the following subsisting United States Applications of the mark BRAHMA KUMARIS, among others, covering a wide variety of goods and services:

- [i] U.S. Serial No. 77/212,153 for the mark BRAHMA KUMARIS for (a) books and printed publications relating to spiritual and meditation issues; and (b) provision of advertising space by electronic means and global information networks, namely the Internet, which was filed June 21,

2007;

- [ii] U.S. Serial No. 77/212,561 for the mark BRAHMA KUMARIS WORLD SPIRITUAL UNIVERSITY for provision of advertising space by electronic means and global information networks, namely the Internet, which was filed June 21, 2007.

True copies of the applications referenced above are collectively annexed hereto as Exhibit A.

Complainant is also the owner of the following common law marks:

- [i] BRAHMA KUMARIS for spiritual and meditation services and products.
- [ii] BRAHMA KUMARIS WORLD SPIRITUAL ORGANIZATION for spiritual and meditation services and products.
- [iii] BRAHMA KUMARIS WORLD SPIRITUAL UNIVERSITY for spiritual and meditation services and products, including publications and courses regarding spiritual and meditation knowledge.

[5.] **FACTUAL AND LEGAL GROUNDS**

Complainant and its governing organization are dedicated to encouraging and facilitating spiritual enlightenment. Respondent has adopted Complainant's name and trademark as the domain name for its website. Respondent's website contains links to Complainant's website as well as those of competing organizations, and Respondent's website further contains content that disparages and denigrates Complainant, although this is not apparent until the substance of Respondent's website is carefully read. Respondent thus uses Complainant's trademark for its domain name and structures its website so as to appear to be associated or affiliated with Complainant. This confuses people and harms Complainant. Complainant does not wish to restrict or censor Respondent's freedom of speech in any way. Complainant simply requests that Respondent not be permitted to use a domain name that implies -- particularly in the context of the content on Respondent's website -- an affiliation or association with Complainant, its governing organization, or any other official branch of Brahma Kumaris

This Complaint is based on the following factual and legal grounds:

[a.] **The Disputed Domain Name <brahmakumaris.info> Is Identical Or Confusingly Similar To A Trademark Or Service Mark In Which Complainant Has Rights. ICANN Policy ¶ 4(a)(i).**

- [i] The Brahma Kumaris institution was founded in 1937 in Hyderabad, Sindh (now in Pakistan), for the purpose of encouraging and facilitating spiritual enlightenment. The Brahma Kumaris institution, also known as the Brahma Kumaris World Spiritual University ("BKWSU"), is headquartered in Mt. Abu, Rajasthan, India. The University has 8,500 branches in over 100 countries with more than 825,000 students. See Excerpts from <www.bkwsu.com/whoweare/faq> (Exhibit B).

- [ii] Complainant, Brahma Kumaris World Spiritual Organization (“BKWSO”), is the U.S. branch of BKWSU and was incorporated in 1977 as a Texas non-profit corporation. Complainant’s objectives include spiritual teaching through courses in Raja Yoga Meditation, courses in personal development, retreats, community outreach, global initiatives and partnerships, and international projects. See Excerpts from <www.bktexas.com/About\_us> (Exhibit C); Certificate of Incorporation and Articles of Incorporation (Exhibit D).
- [iii] BKWSU, by and through its 8,500 branches, has at least 47 official websites, with twelve websites incorporating the BRAHMA KUMARIS mark. See <http://www.brahma kumaris.com/links.htm> (Exhibit E). Complainant owns and maintains two (2) official websites, <www.bkwsu.org>, the official international website for Brahma Kumaris, and <www.bktexas.com>, the official website for Brahma Kumaris in Texas. See WhoIs Database Records (Exhibit F).
- [iv] The BRAHMA KUMARIS name has been widely regarded as synonymous with promoting world peace and fundamental human rights. For example, BKWSU is an international non-governmental organization (NGO) in general consultative status with the Economic and Social Council of the United Nations and in consultative status with UNICEF. BKWSU has also been awarded UN Peace Medals in 1981 and 1986. See <http://www.brahmakumaris.com/aboutus/awardsandrecognitions.htm> (Exhibit G). Whenever possible, Complainant places its name on publications and uses its name to promote its services. See, e.g., photographs of branded products (Exhibit H). Complainant’s publications have been sold worldwide for over ten years. See <http://www.bkwsu.net/us\_studio/> (Exhibit I).
- [v] Paragraph 4(a)(i) of the ICANN Policy requires a complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights. Paragraph 4(a)(i) is not limited to the protection of registered trademarks but also applies to unregistered (common law) trademarks upon a showing of use. E.g., *UK Betting PLC v. Oldfield*, WIPO Arbitration and Mediation Center, D2005-0637 (Aug. 31, 2005) (Exhibit J).
- [vi] By virtue of its interstate use of the distinctive BRAHMA KUMARIS, BRAHMA KUMARIS WORLD SPIRITUAL ORGANIZATION, and BRAHMA KUMARIS WORLD SPIRITUAL UNIVERSITY marks for its spiritual and meditation services and products, Complainant has acquired federal common law rights in its BRAHMA KUMARIS mark. See, e.g., 15 U.S.C. § 1125(a) [Lanham Act § 43(a) (protecting unregistered marks)].
- [vii] Complainant also owns two (2) U.S. Trademark Applications for the BRAHMA KUMARIS mark. (Exhibit A).
- [viii] The disputed domain name, <brahmakumaris.info>, is identical to the BRAHMA KUMARIS mark, except for the addition of the generic top-level domain “.info.” This slight modification is necessary to form a domain name and, therefore, is irrelevant to the Paragraph 4(a)(i) identical or confusingly similar analysis. See *Hannover Ruckversicherungs-AG v. Ryu*, National Arbitration Forum, Forum File No. FA 102724 (Jan. 7, 2001) (finding <hannoverre.com> to be identical to

HANNOVER RE, “as spaces are impermissible in domain names and a generic top-level domain such as ‘.com’ or ‘.net’ is required in domain names”) (Exhibit K); *see also Prudential Ins. Co. of Am. v. Irvine*, National Arbitration Forum, Forum File No. FA 95768 (Nov. 6, 2000) (finding that the domain name is identical to Complainant’s PRUDENTIAL ONLINE trademark because the root of the domain name, the word "Prudential," is identical to Complainant’s mark; thus, the domain name in its entirety is confusingly similar to the Complainant’s family of marks) (Exhibit L).

**[b.] Respondent Should Be Considered As Having No Rights Or Legitimate Interests In Respect Of <brahmakumaris.info>. ICANN Policy ¶ 4(a)(ii).**

[i] Respondent

[ii] On or about March 27, 2006, Respondent, in an attempt to conceal responsibility for its activities, registered the disputed <brahmakumaris.info> domain name through Domains By Proxy, Inc., a private registration service, approximately thirty (30) years after Complainant began using the BRAHMA KUMARIS mark, and more than sixty (60) years after Complainant’s governing organization, BKWSU, began using the BRAHMA KUMARIS mark. *See WhoIs Database Records* (Exhibit M).

[iii] When an Internet user types in the disputed domain name, the user is misleadingly diverted to a web page entitled “BrahmaKumaris.Info.” A true and correct copy of the web page at <www.brahmakumaris.info> is attached hereto as (Exhibit N). This web page displays terms containing hyperlinks. Among these terms, the name “BKWSU” appears as a link to <www.brahmakumaris.com> owned by BKWSU, incorrectly suggesting an affiliation with Complainant. Other terms and phrases inappropriately suggest that BrahmaKumaris.Info is an organization consisting of “associates of” BKWSU.

[iv] BrahmaKumaris.Info also displays numerous hyperlinks that are unrelated to Complainant’s goods and services. True and correct copies of examples of these sites are collectively attached hereto as (Exhibit O). Hence, Respondent’s use of the domain name is decidedly not in connection with a bona fide offering of goods or services. *See ICANN Policy ¶ 4(c)(i); see also Children’s Network LLC v. sum blue*, National Arbitration Forum, Forum File No. FA 1002628 (July 26, 2007) (Respondent’s use of the <sproutsmart.com> domain name to display a list of hyperlinks that are unrelated to Complainant’s business does not constitute a *bona fide* offering of goods and services under Policy ¶ 4(c)(i)) (Exhibit P); *Golden Bear International, Inc. v. Kangdeock-Ho*, National Arbitration Forum, Forum File No. FA 190644 (Oct. 17, 2003) (“Respondent’s use of a domain name confusingly similar to Complainant’s mark to divert Internet users to websites unrelated to Complainant’s business does not represent a *bona fide* offering of goods or services under Policy ¶ 4(c)(i)”) (Exhibit Q).

[v] More importantly, BrahmaKumaris.Info contains “LINKS” and “FORUM LINKS” sections with hyperlinks to Complainant’s competitors, such as PBK, whose official name is Adhyathmik Ishwaria Vishwa Vidyalaya. True and correct copies of excerpts from PBK’s sites are collectively attached hereto as Exhibit R. As is



apparent from these excerpts, PBK attempts to portray its organization as an official part of Complainant's organization to mislead and recruit current or potential BKWSO and BKWSU students. *See Mission KwaSizabantu v. Rost*, WIPO Arbitration and Mediation Ctr., No. D2000-0279 (June 7, 2000) (defining "competitor" as "one who acts in opposition to another and the context does not imply or demand any restricted meaning such as commercial or business competitor") (Exhibit S). Hence, Respondent's use of the domain name is decidedly not in connection with a bona fide offering of goods or services. *See ICANN Policy* ¶ 4(c)(i); *see also TM Acquisition Corp. v. Sign Guards*, National Arbitration Forum, Forum File No. FA 132439 (Dec. 31, 2002) (diversionary use of the complainant's marks to send Internet users to a website which displayed a series of links, some of which linked to the complainant's competitors, was not a bona fide offering of goods or services) (Exhibit T)

- [vi] Upon information and belief, Respondent has not been commonly known by any name remotely similar to the disputed domain name. Respondent has acquired no trademark or service mark rights in any name remotely similar to the disputed domain name. *See ICANN Policy*, ¶ 4(c)(ii).
- [vii] Upon information and belief, Respondent does not make any "legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue." *See ICANN Policy*, ¶ 4(c)(iii). Respondent's use of Complainant's mark is meant to attract users of Complainant's site, to discourage those users from associating with Complainant, and then to redirect users to websites that offer unrelated products and solicit donations, subscriptions, and advertising space. By selecting hyperlinks in the "LINKS" section on Respondent's web page, the user is directed to third-party websites offering publications for sale, soliciting donations and subscriptions, and containing advertisements, suggesting Respondent's use of the subject domain name is for commercial gain and to misleadingly divert consumers interested in BKWSO and BKWSU. *See Exhibit O*. Panels have established that the use of a domain name for a web page providing links to other sites is traditionally a revenue-generating model (*i.e.*, from clicks through to advertised "sponsored sites" or "featured links"). *See Sam Ash Music v. Zoroastrian Tech*, WIPO Arbitration and Mediation Ctr., No. D2005-0205 (Apr. 26, 2005) (Exhibit U).
- [viii] Respondent also uses the subject domain name to disparage Complainant and to tarnish Complainant's mark, despite Respondent's claim that the site is "impartial and non-doctrinal." Respondent makes false allegations of rape, murder, suicide, broken families, and undue influence -- all attributed to Complainant's organization -- and then attempts to give the appearance of authority to the allegations by posting them under the guise of legitimate news articles. Indeed, Respondent goes so far as to call Complainant's organization a cult. *See excerpts from <www.brahmakumaris.info>* (Exhibit V) (printed on August 15, 2007). Respondent also allows others to use its website to post defamatory and offensive statements against Complainant. For example, one post likens a parade at Complainant's Universal Peace Festival to Leni Riefenstahl's Nazi party propaganda documentary, *Triumph des Willens*. *See excerpts of posts from <www.brahmakumaris.info>* (Exhibit W).

- [ix] Respondent has no right or legitimate interest in using a domain name that is virtually identical to Complainant's BRAHMA KUMARIS mark to criticize and to disparage Complainant, to destroy Complainant's goodwill, and to tarnish Complainant's mark. This is not a fair use of the domain name as contemplated by the ICANN Policy. *See, e.g., Justice for Children v. R neetso/Robert W. O'Steen*, WIPO Arbitration and Mediation Ctr., No. D2004-0175 (June 4, 2004) (Exhibit X). Although Respondent may have a right to free speech and a legitimate interest in criticizing activities of an organization like Complainant, that free speech does not create rights or legitimate interests in a domain name that is virtually identical to Complainant's mark. *See The Reverend Dr. Jerry L. Falwell and The Liberty Alliance v. Lamparello International*, National Arbitration Forum, Forum File No. FA 198936 (Nov. 20, 2003) (Exhibit Y); *Compagnie Generale des Matieres Nucleaires v. Greenpeace Int'l*, WIPO Arbitration and Mediation Ctr., No. D2001-0376 (May 14, 2001) (Exhibit Z). Accordingly, Respondent's use of the subject domain name does not constitute a legitimate non-commercial or fair use under ¶ 4(c)(iii) of the Policy.
- [x] The above conduct provides further evidence that Respondent's use of the domain name cannot be considered as use in connection with any *bona fide* offering of goods or services. *See* ICANN Policy ¶ 4(c)(i).
- [xi] Complainant has thus demonstrated under ICANN Policy ¶ 4(a)(ii) that Respondent should be considered as having no rights or legitimate interests in the domain name <brahmakumaris.info>.
- [c.] **The <brahmakumaris.info> Domain Name Should Be Considered As Having Been Registered And Used In Bad Faith. ICANN Policy ¶ 4(a)(iii).**
- [i] Paragraph 4(b) of the ICANN Policy provides four nonexclusive circumstances that provide evidence of bad faith registration and use under ¶ 4(a)(iii) of the ICANN Policy. Respondent's use falls within the second, third, and fourth circumstances, ¶ 4(b)(ii)-(iv).
- [ii] Paragraph 4(b)(ii) of the Policy provides that evidence of bad faith shall include circumstances in which a Respondent has "registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct."
- [iii] Not only has Respondent prevented Complainant from using the BRAHMA KUMARIS mark as a .info domain name and disseminating information about it services under that logical URL, but Domains By Proxy, Inc. has also engaged in a pattern of registering domain names incorporating well known and famous marks in which it does not have legitimate rights and using them for commercial gain. *See, inter alia, Dr. Ing. h.c. F. Porsche AG v. Domains by Proxy, Inc and Sabatino Andreoni*, WIPO Arbitration and Mediation Ctr., No. D2003-0230 (May 16, 2003) (<porschedesign.com>) (Exhibit AA); *Cedric Kyles v. Domains By Proxy, Inc./Asia Ventures, Inc.*, WIPO Arbitration and Mediation Ctr., No. D2006-0046 (Mar. 21, 2006) (<cedrictheentertainer.com>) (Exhibit BB). Domains By Proxy, Inc., "as its

name suggests, is simply the ‘front’ for its clients, its raison d’être being to preserve the anonymity of its clients,” presumably, in many instances, to avoid liability and responsibility for the activities on the website corresponding to the domain. See *Porsche AG*, WIPO No. D2003-0230 (Exhibit AA). As such, Domains By Proxy, Inc. should be held jointly responsible for the *mala fides* of the Respondent, and both should be required to transfer the subject domain name back to Complainant.

- [iv] Paragraph 4(b)(iii) of the Policy provides that evidence of bad faith shall include circumstances in which a Respondent has “registered the domain name primarily for the purpose of disrupting the business of a competitor.” See *Mission KwaSizabantu* (Exhibit S) (for definition of “competitor”); see also *Compagnie Generale des Matieres Nucleaires* (Exhibit Z) (stating that although Respondent’s complaint website did not compete with Complainant or earn commercial gain, Respondent’s appropriation of Complainant’s trademark with a view to cause “damage and disruption to [Complainant] cannot be right, still less where the use of the Domain Name will trick internet users intending to visit the trademark owner’s site into visiting the registrant’s site” in holding that the disputed domain name was registered in bad faith).
- [v] Clearly, Respondent’s registration and use has been for the primary purpose of disrupting Complainant’s charitable work. Respondent’s choice of domain name makes it likely that Internet users entering “Brahma Kumaris” into a search engine will find the <brahmakumaris.info> site. Respondent’s use of Complainant’s mark is meant to attract users of Complainant’s site, and then to discourage them from associating with Complainant, thereby harming Complainant’s goodwill. As discussed above, Respondent uses the subject domain name to disparage and discredit Complainant, despite Respondent’s claim that the site is “impartial and non-doctrinal.” See Exhibits V and W.
- [vi] Once a user has been exposed to Respondent’s disparaging propaganda, the user is directed to the various links displayed on Respondent’s website. These third-party sites contain information in direct opposition to the teachings and principles of Complainant. Some of these sites, such as PBK, are in direct competition with Complainant. See *Children’s Network LLC* (Exhibit P). Others offer unrelated products and solicit donations, subscriptions, and advertising space. See Exhibit R. Such use clearly constitutes disruption and is evidence of bad faith registration and use. See *Goldfish Card Services v. M. Connolly*, National Arbitration Forum, Forum File No. FA 1000020 (July 11, 2007) (finding that respondent’s use of the <goldfishcreditcard.com> domain name to redirect Internet users attempting to locate complainant’s website to respondent’s own website, where hyperlinks to third-party websites in direct competition with complainant are displayed, constitutes a disruption of complainant’s business and is evidence of bad faith registration and use under Policy ¶ 4(b)(iii)) (Exhibit CC). See *The Neiman Marcus Group, Inc. and NM Nevada Trust v. Compassion Over Killing*, National Arbitration Forum, Forum File No. FA 190626 (Oct. 7, 2003) (finding bad faith where respondent’s use of the <neimanskills.com> and <neimankills.org> domains names was intended to trick Internet users searching for <neimanmarcus.com> into visiting respondent’s <neimancarcass.com> website which criticizes complainant

and provide links to other websites that criticize complainant and solicit donations and sell products in support of animal rights groups) (Exhibit DD).

- [vii] Paragraph 4(b)(iv) of the Policy provides that evidence of bad faith shall include circumstances in which a Respondent has “intentionally attempted to attract, for commercial gain, Internet users to [respondent’s] web site 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 [respondent’s] web site or location or of a product or service or service on [respondent’s] web site or location.”
- [viii] Here, there can be little doubt that Respondent’s registration and use has been for the intentional purpose of attracting Internet users interested in Complainant’s products and services. The disputed domain name was obviously chosen because it is essentially identical to Complainant’s BRAHMA KUMARIS mark, with the exception of the addition of the generic top-level domain “.info.”
- [ix] Respondent’s use of such a confusingly similar domain name creates a likelihood of confusion among Internet users searching for Complainant’s products and services. Specifically, consumers are likely to be confused as to the source, sponsorship, affiliation, or endorsement of the products and services promoted through the hyperlinks available on Respondent’s website.
- [x] Upon information and belief, Respondent is also operating its website for commercial gain, either directly or indirectly. Respondent’s use of Complainant’s mark is meant to attract users of Complainant’s site, to discourage them from associating with Complainant, and then to redirect users to websites that offer unrelated products and solicit donations, subscriptions, and advertising space. See (Exhibit O). Panels have inferred that a commercial benefit is received from “click-thru” fees accrued by directing Internet users to unrelated commercial websites via a website designed to divert the users from their intended search. See *Carruth Studio, Inc. v LaPorte Holdings, Inc.*, National Arbitration Forum, Forum File No. FA 384824 (Feb. 4, 2005) (Exhibit EE). The links on Respondent’s website are highly suggestive of this revenue-generating model. Accordingly, the only reasonable conclusion to be drawn is that Respondent is intentionally attempting to commercially gain from the likelihood of confusion between the disputed domain name and Complainant’s mark.

Having satisfied the three elements set forth in ¶ 4(a) of the ICANN Policy, Complainant respectfully requests the relief set forth under section [6.] below, namely, transfer of the domain name <brahmakumaris.info> to Complainant.

**[6.] REMEDY SOUGHT**

The Complainant requests that the domain-name registration be transferred to Complainant.

**[7.] OTHER LEGAL PROCEEDINGS**

None at this time.

**[8.] COMPLAINT TRANSMISSION**

The Complainant asserts that a copy of this Complaint, together with the cover sheet as prescribed by NAF's Supplemental Rules, has been sent or transmitted to the Respondent, in accordance with ICANN Rule 2(b), and to the Registrar of the domain name, in accordance with NAF Supp. Rule 4(e). ICANN Rule 3(b)(xii); NAF Supp. Rule 4(c).

**[9.] MUTUAL JURISDICTION**


With respect to any challenges to a decision in the administrative proceeding canceling or transferring the domain name, the Complainant will submit to jurisdiction in Scottsdale, Arizona, where the principal office of the concerned registrar is located.

**[10.] CERTIFICATION**

Complainant agrees that its claims and remedies concerning the registration of the domain name, the dispute, or the dispute's resolution shall be solely against the domain-name holder and waives all such claims and remedies against: (a) the National Arbitration Forum and panelists, except in the case of deliberate wrongdoing; (b) the registrar; (c) the registry administrator; and (d) the Internet Corporation for Assigned Names and Numbers, as well as their directors, officers, employees, and agents.

Complainant certifies that the information contained in this Complaint is to the best of Complainant's knowledge complete and accurate, that this Complaint is not being presented for any improper purpose, such as to harass, and that the assertions in this Complaint 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,

  
\_\_\_\_\_  
Kelly R. McCarty, Esq.

9/18/07  
\_\_\_\_\_  
Date

## Schedule of Documentary and Other Evidence

Copy of Applicable ICANN Policy

- Exhibit A Applications for U.S. Serial No. 77/212,153 and 77/212,561.
- Exhibit B Excerpts from [www.bkwsu.com/whoweare/faq](http://www.bkwsu.com/whoweare/faq) (printed on August 13, 2007).
- Exhibit C Excerpts from [www.bktexas.com/About\\_us](http://www.bktexas.com/About_us) (printed on August 13, 2007).
- Exhibit D Complainant's Certificate of Incorporation and Articles of Incorporation.
- Exhibit E <http://www.brahmakumaris.com/links.htm> (printed on August 13, 2007).
- Exhibit F WhoIs Database for [www.bkwsu.org](http://www.bkwsu.org) and [www.bktexas.com](http://www.bktexas.com) (printed on August 13, 2007).
- Exhibit G <http://www.brahmakumaris.com/aboutus/awardsandrecognitions.htm> (printed on August 13, 2007).
- Exhibit H Photographs of branded products.
- Exhibit I [http://www.bkwsu.net/us\\_studio/](http://www.bkwsu.net/us_studio/) (printed on August 13, 2007).
- Exhibit J *UK Betting PLC v. Oldfield*, WIPO Arbitration and Mediation Center, D2005-0637 (Aug. 31, 2005).
- Exhibit K *Hannover Ruckversicherungs-AG v. Ryu*, National Arbitration Forum, Forum File No. FA 102724 (Jan. 7, 2001).
- Exhibit L *Prudential Ins. Co. of Am. v. Irvine*, National Arbitration Forum, Forum File No. FA 95768 (Nov. 6, 2000).
- Exhibit M WhoIs Database for [www.brahmakumaris.info](http://www.brahmakumaris.info) (printed on August 22, 2007 and September 14, 2007).
- Exhibit N Copy of the web page at [www.brahmakumaris.info](http://www.brahmakumaris.info) (printed on August 13, 2007).
- Exhibit O Examples of hyperlinks on BrahmaKumaris.Info that are unrelated to Complainant's products and services. (printed on August 15, 2007).
- Exhibit P *Children's Network LLC v. sum blue*, National Arbitration Forum, Forum File No. FA 1002628 (July 26, 2007).
- Exhibit Q *Golden Bear International, Inc. v. Kangdeock-Ho*, National Arbitration Forum, Forum File No. FA 190644 (Oct. 17, 2003).
- Exhibit R Excerpts from websites of Complainant's competitor, PBK, from "LINKS" section of BrahmaKumaris.Info (printed on August 20, 2007).

- Exhibit S *Mission KwaSizabantu v. Rost*, WIPO Arbitration and Mediation Ctr., No. D2000-0279 (June 7, 2000).
- Exhibit T *TM Acquisition Corp. v. Sign Guards*, National Arbitration Forum, Forum File No. FA 132439 (Dec. 31, 2002).
- Exhibit U *Sam Ash Music v. Zoroastrian Tech*, WIPO Arbitration and Mediation Ctr., No. D2005-0205 (Apr. 26, 2005).
- Exhibit V Excerpts from [www.brahmakumaris.info](http://www.brahmakumaris.info) (printed on August 15, 2007).
- Exhibit W Excerpts of posts from [www.brahmakumaris.info](http://www.brahmakumaris.info) (printed on August 14, 2007).
- Exhibit X *Justice for Children v. R neetso/Robert W. O'Steen*, WIPO Arbitration and Mediation Ctr., No.-D2004-0175 (June 4, 2004).
- Exhibit Y *The Reverend Dr. Jerry L. Falwell and The Liberty Alliance v. Lamparello International*, National Arbitration Forum, Forum File No. FA 198936 (Nov. 20, 2003).
- Exhibit Z *Compagnie Generale des Matieres Nucleaires v. Greenpeace Int'l*, WIPO Arbitration and Mediation Ctr., No. D2001-0376 (May 14, 2001).
- Exhibit AA *Dr. Ing. h.c. F. Porsche AG v. Domains by Proxy, Inc and Sabatino Andreoni*, WIPO Arbitration and Mediation Ctr., No. D2003-0230 (May 16, 2003).
- Exhibit BB *Cedric Kyles v. Domains By Proxy, Inc./Asia Ventures, Inc.*, WIPO Arbitration and Mediation Ctr., No. D2006-0046 (Mar. 21, 2006).
- Exhibit CC *Goldfish Card Services v. M. Connolly*, National Arbitration Forum, Forum File No. FA 1000020 (July 11, 2007).
- Exhibit DD *The Neiman Marcus Group, Inc. and NM Nevada Trust v. Compassion Over Killing*, National Arbitration Forum, Forum File No. FA 190626 (Oct. 7, 2003).
- Exhibit EE *Carruth Studio, Inc. v LaPorte Holdings, Inc.*, National Arbitration Forum, Forum File No. FA 384824 (Feb. 4, 2005).

- Annex documentary & other evidence, including a copy of the Policy applicable to the domain name, together with a schedule indexing such evidence. ICANN Rule 3(b)(xv).
- Insure that the Complaint, not including annexed material, does not exceed ten (10) pages. NAF Supp. Rule 4(a).
- Submit three copies of the Complaint, including annexed material, to the National Arbitration Forum. NAF Supp. Rule 4(b).
- Submit copy of the Complaint, including annexed material, to the Registrar at the same time the Complaint is sent to the National Arbitration Forum. NAF Supp. Rule 4(e).
- Submit check for \$1300 to the National Arbitration Forum. NAF Supp. Rule 17.
- Attach cover sheet, as prescribed by NAF's Supplemental Rules, to copy of this Complaint, sent together to Respondent. ICANN Rule 3(b)(xii).