



CrossFit Cybersquatter Gets Dealt Multiple Blows

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In [CrossFit, Inc. v. Results Plus Personal Training Inc.](#), the panel held that an unsubstantiated "consent to transfer" will not avoid an adverse ruling. National Arbitration Claim Number: FA1305001498576 (June 28, 2013). The domain names at issue were <crossfitagawam.com>, <crossfitansonio.com>, <crossfitbeaconfalls.com>, and many other "crossfit"-derivative .com domain names referring to different cities across the United States.

CrossFit, Inc. provided workout and gym products and services. Its revenue mainly came from licensing its registered CROSSFIT marks and programs to affiliate gyms around the country. Typically the affiliate would register a "crossfit" domain name that included a geographic designator, e.g., crossfitboston.com. The Respondent, Results Plus Personal Training Inc., was a competitor of Crossfit. It registered 113 domain names, most of which "do nothing but add the name of a famous or popular city [to] the CrossFit mark." Most were used for parked web pages, often with advertising hyperlinks for Respondent and other competitors. The panel found that Respondent registered that large amount of domain names "to resell them exclusively to Complainant and its affiliates." It was a "bad faith endeavor to confuse Internet users into believing Complainant or its CrossFit mark is at the source of the content, all so Respondent can advance its goals to generate revenue."

Results Plus argued that GoDaddy.com led it to believe that it could legally register and use these domain names in the manner that it did. Although CrossFit had filed a federal court action seeking \$9 million in damages, the Panel determined that it retained authority to proceed to decision. To avoid an adverse ruling, Results Plus offered to transfer the domain names to Crossfit on the condition that Crossfit pay Results Plus \$1,300, which Results Plus argued was "far less" than it had spent maintaining the 113 domain names.

The Panel observed that an effective consent to transfer does not ordinarily arise when the transfer is subject to the condition precedent of a markholder's payment of fees. The Panel found that



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Complainant has not implicitly consented in its Complaint to the transfer of the disputed domain names without a decision on the merits by the Panel. The Panel observed that this “consent-to-transfer” approach was one way cybersquatters tried to avoid adverse holdings, but it normally was ineffective, especially when the alleged “consent” required the transfer of money to the respondent. The Panel ultimately found that Results Plus did not have any legitimate interest in the disputed domain names and had acted in bad faith, and ordered the domain names transferred to Cross Fit.

This case highlights that trademark owners can bring an action to transfer multiple infringing domain names from a single cybersquatter under the [Uniform Domain-Name Dispute Resolution Policy](#) (commonly referred to as “UDRP”). The UDRP sets forth the grounds on which arbitrators base their decisions, but there are several different dispute resolution forums from which to choose, all with their own local rules, procedures and leanings. While I do not practice CrossFit myself, I know a good 1-2 punch when I see one – and, for now, Results Plus is down for the count.

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