EXHIBIT D

Before the:

WORLD INTELLECTUAL PROPERTY ORGANIZATION
ARBITRATION AND MEDIATION CENTER

Pacific-10 Conference 1350 Treat Blvd., Suite 500 Walnut Creek, CA 94597 United States of America **(Complainant)** -v- Contactprivacy.com 96 Mowat Ave. Toronto, ON M6K 3M1 a Canadian company **(Respondent)**	**Disputed Domain Name:** **<www.pac12.com>**

COMPLAINT

(Rules, Paragraph 3(b); Supplemental Rules, Paragraphs 4(a), 12(a), Annex E)

I. Introduction

[1.] This Complaint is hereby submitted for decision in accordance with the Uniform Domain Name Dispute Resolution Policy (the **Policy**), approved by the Internet Corporation for Assigned Names and Numbers (**ICANN**) on October 24, 1999, the Rules for Uniform Domain Name Dispute Resolution Policy (the **Rules**), approved by ICANN on October 30, 2009, and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the **Supplemental Rules**).

II. The Parties

A. The Complainant

(Rules, Paragraphs 3(b)(ii) and (iii))

[2.] The Complainant in this administrative proceeding is the Pacific-10 Conference, an unincorporated California business association with its principal place of business in Walnut Creek, California, U.S.A. (hereafter, the "Pacific-10" or "Complainant").

[3.] The Complainant's contact details are:

Address:	Pacific-10 Conference 1350 Treat Blvd., Suite 500 Walnut Creek, CA 94597, USA
Telephone:	1-925-946-3781
Fax:	1-925-932-4601
E-mail:	wdixon@pac-10.org

[4.] The Complainant's authorized representatives in this administrative proceeding are:

Contact:	Peter J. Willsey, Esq. Vincent J. Badolato, Esq.
Address:	Cooley LLP 777 6th Street, Suite 1100 Washington, DC 20001-3703, USA
Telephone:	1-202-842-7800
Fax:	1-202-842-7899
E-mail:	pwillsey@cooley.com vbadolato@cooley.com

[5.] The Complainant's preferred method of communication directed to the Complainant in this administrative proceeding is:

Electronic-only material

Method:	e-mail
Address:	vbadolato@cooley.com
Contact:	Vincent J. Badolato, Esq.

Material including hardcopy (where applicable)

Method:	Post – U.S. Mail
Address:	Cooley LLP 777 6th Street, Suite 1100 Washington, D.C. 20001-3703, USA
Fax:	1-202-842-7899
Contact:	Vincent J. Badolato, Esq.

B. The Respondent
(Rules, Paragraph 3(b)(v))

[6.] According to the WHOIS database, the Respondent in this administrative proceeding is Contactprivacy.com, a company in Toronto, Canada. A true and correct copy of the printout of the Dotster WHOIS search conducted on January 6, 2011, for the challenged domain name is attached hereto as Annex A.

[7.] All information known to the Complainant regarding how to contact the Respondent is as follows:

Registrant Contact:	Contactprivacy.com
Address:	96 Mowat Ave. Toronto, ON M6K 3M1 CA
Administrative Contact:	Contactprivacy.com: pac12.com@contactprivacy.com
Address:	96 Mowat Ave. Toronto, ON M6K 3M1 CA
Telephone:	1-416-538-5457
E-mail:	pac12.com@contactprivacy.com

III. The Domain Name and Registrar
(Rules, Paragraphs 3(b)(vi), (vii))

[8.] This dispute concerns the domain name **www.pac12.com**, which was registered July 8, 2005 (the "Disputed Domain Name").

[9.] The registrar with which the domain name is registered is Tucows, Inc. ("Tucows").

URL:	http://www.domainhelp.opensrs.com
Address:	Tucows, Inc. 96 Mowat Ave. Toronto, ON M6K 3M1, Canada
Telephone:	416-535-0123
Email:	compliance@opensrs.org

IV. Language of Proceedings
(Rules, Paragraph 11)

[10.] To the best of the Complainant's knowledge, the language of the Registration Agreement is English, a copy of which is provided as Annex B to this Complaint. The Complaint has therefore been submitted in English.

V. Jurisdictional Basis for the Administrative Proceeding
(Rules, Paragraphs 3(a), 3(b)(xv))

[11.] This dispute is properly within the scope of the Policy and the Administrative Panel has jurisdiction to decide the dispute. The Registration Agreement, pursuant to which the domain name that is the subject of this Complaint is registered, incorporates the Policy. The domain name was registered with Tucows, and Sections 8, 9 and 32(a) of the Registration Agreement make the Policy applicable to the domain name. The domain name dispute policy that applies to the Disputed Domain Name is ICANN's Uniform Domain Dispute Policy ("UDRP"). The Registration Agreement can be found at <http://www.opensrs.org/docs/contracts/exhibita.htm>; Paragraph 32(a) of the Registration Agreement contains the following link that incorporates the UDRP: <http://www.icann.org/dndr/udrp/policy.htm>.

VI. Factual and Legal Grounds
(Policy, Paragraphs 4(a), (b), (c); Rules, Paragraph 3)

This Complaint is based on the following grounds:

A. Background on Complainant Pacific-10 Conference.

[12.] Complainant is among the preeminent collegiate athletic conferences in the United States. The conference currently has ten member schools, which are well-regarded academically, have large student enrollments, and compete in over 20 National Collegiate Athletic Association ("NCAA") sports. *See* Declaration of Woodie Dixon, Jr., Esq., attached as Annex C.

[13.] The Pacific-10's roots date back to 1915, and the current ten-school conference was established in 1978. Since that time, the PAC-10 has consistently used a family of marks featuring "PAC-10" or "PAC 10", including several distinctive logos (collectively, the "PAC-10 Marks"), to market and identify its members, athletic events, and championships through print, online, radio and television mediums, as well as on branded apparel and related consumer goods. *See* Annex C.

[14.] Complainant is known as the Conference of Champions®, claiming an incredible 171 NCAA team titles over the past 20 years, including eight in 2009-10, averaging nearly nine championships per academic year. Even more impressive has been the breadth of the Pacific-10's success, with championships coming in 26 different men's and women's sports. The Pacific-10 has led the nation in NCAA Championships in 44 of the last 50 years and finished second five times. The top three schools with the most NCAA champions are all members of the Pacific-10: UCLA, Stanford and the University of Southern California, respectively. *See* Annex C.

[15.] The growth in popularity of collegiate athletics and the commensurate business opportunities caused a number of collegiate athletic conferences over the years to consider membership realignment and expansion to capitalize on that growth. The Pacific-10 was no exception. Amid widespread media and public speculation, on June 10, 2010, the Pacific-10 publicly announced the addition of the first of two new member universities, and the Pacific-10's expansion to the Pacific-12 Conference was complete with the public announcement of a second new member university on July 27, 2010. *See* Annex C; *see also* articles attached at Annex D. As a result, Complainant applied for several U.S. trademark registrations for marks featuring either "PAC 12", "PAC12" or "PAC-12" in connection with goods and services that will be associated with the Pacific-12 Conference (collectively, the "PAC-12 Marks").

[16.] Complainant bases this Complaint on its distinctive PAC-10 and PAC-12 Marks. Complainant has registered its PAC 10 Marks in the United States, applied for registration of its PAC-12 Marks in the United States, and developed common law rights in both marks, as detailed below.

[17.] Complainant owns the following U.S. trademark registrations for the PAC-10 Marks:

MARK	REGISTR. NUMBER	GOODS & SERVICES DISCLAIMER (if made)	HISTORY & CURRENT STATUS
PAC 10 CONFERENCE & Design 	Registration No. 3,809,457	Class 35: Association services, namely, promoting the interests of colleges participating in various sports attractions	Filed 6/15/09 Registered 6/29/10 First Use: 6/08

MARK	REGISTR. NUMBER	GOODS & SERVICES DISCLAIMER (if made)	HISTORY & CURRENT STATUS
PAC-10	Registration No. 3,817,094	Class 16: Publications, namely, books, pamphlets, brochures, newsletters, magazines, handbooks, manuals, programs, and guides for sporting events Class 35: Association services, namely, promoting the interests of colleges and universities participating in various sports attractions Class 41: Production and distribution of programs featuring sports, television, video and audio entertainment transmitted via wireless communication devices, namely, cell phones, personal digital assistants, computers, and wireless handhelds; entertainment services, namely, production and distribution of television programs; providing on-line information in the field of sports, television, video and audio entertainment via a global communications network	Filed 10/22/09 Registered 7/13/10 First Use – Classes 16 & 35: 7/1/78 First Use – Class 41: 12/21/96
PAC-10	Registration No. 1,177,379	Class 25: Shirts and jackets	Filed 12/21/79 Registered 11/10/81 Renewed 9/24/01 First Use: 8/78
PACIFIC-10	Registration No. 1,178,056	Class 16: Sports information printed booklets Class 42: Association services-namely, promoting the interests of colleges participating in various sports attractions	Filed 11/19/79 Registered 11/17/81 Renewed 10/3/01 First Use: 7/78
PACIFIC-10 CONFERENCE	Registration No. 3,809,456	Class 35: Association services, namely, promoting the interests of colleges participating in various sports attractions	Filed 6/15/09 Registered 6/29/10 First Use: 7/78
PACIFIC-10 CONFERENCE & Round Shield Design	Registration No. 1,510,919	Class 42: Association services -namely, promoting the interests of colleges participating in various sports attractions	Filed 11/23/87 Registered 11/1/88 Renewed 3/5/09 First Use: 11/86

True and correct copies of the certificates of registration for the foregoing are attached hereto as Annex E.

[18.] Complainant has filed and owns the following pending U.S. trademark applications for registration of the PAC-12 Marks:

MARK	APPLIC. NUMBER	GOODS & SERVICES DISCLAIMER (if made)	HISTORY & CURRENT STATUS
PAC 12 Shield Logo	Application No. 85/093,520	Class 16: Publications, namely, books, pamphlets, brochures, newsletters, magazines, handbooks, manuals, programs, and guides for sporting events Class 25: Clothing, namely, knit shirts, polo shirts, sweaters, sweatshirts, jerseys, shirts, t-shirts, hats, swimwear, shorts, pants, jackets, ties, underwear, undershirts, footwear, socks; outerwear, namely, coats Class 35: Association services, namely, promoting the interests of colleges participating in various sports attractions Class 38: Broadcast of television programming in the field of sports Class 41: Production and distribution of programs featuring sports, television, video and audio entertainment transmitted via wireless communication devices, namely, cell phones, personal digital assistants, computers, and wireless handhelds; entertainment services, namely, production and distribution of television programs; providing on-line information in the field of sports, television, video and audio entertainment via a global communications network	Filed 7/27/10 (on the basis of intended use)
PAC-12	Application No. 85/101,008	Class 16: Publications, namely, books, pamphlets, brochures, newsletters, magazines, handbooks, manuals, programs, and guides for sporting events Class 25: Clothing, namely, knit shirts, polo shirts, sweaters, sweatshirts, jerseys, shirts, t-shirts, hats, swimwear, shorts, pants, jackets, ties, underwear, undershirts, footwear, socks; outerwear, namely, coats Class 35: Association services, namely, promoting the interests of colleges participating in various sports attractions Class 38: Broadcast of television programming in the field of sports Class 41: Production and distribution of programs featuring sports, television, video and audio entertainment transmitted via wireless communication devices, namely, cell phones, personal digital assistants, computers, and wireless handhelds; entertainment services, namely, production and distribution of television programs; providing on-line information in the field of sports, television, video and audio entertainment via a global communications network	Filed 8/5/10 (on the basis of intended use)

MARK	APPLIC. NUMBER	GOODS & SERVICES DISCLAIMER (if made)	HISTORY & CURRENT STATUS
PAC12 CONFERENCE Logo 	Application No. 85/093,509	Class 16: Publications, namely, books, pamphlets, brochures, newsletters, magazines, handbooks, manuals, programs, and guides for sporting events Class 25: Clothing, namely, knit shirts, polo shirts, sweaters, sweatshirts, jerseys, shirts, t-shirts, hats, swimwear, shorts, pants, jackets, ties, underwear, undershirts, footwear, socks; outerwear, namely, coats Class 35: Association services, namely, promoting the interests of colleges participating in various sports attractions Class 38: Broadcast of television programming in the field of sports Class 41: Production and distribution of programs featuring sports, television, video and audio entertainment transmitted via wireless communication devices, namely, cell phones, personal digital assistants, computers, and wireless handhelds; entertainment services, namely, production and distribution of television programs; providing on-line information in the field of sports, television, video and audio entertainment via a global communications network	Filed 7/27/10 (on the basis of intended use)

True and correct copies of the print-outs from the U.S. Patent & Trademark Office online records for these applications are attached hereto as Annex F.

[19.] This Complaint is also based upon Complainant's common law trademark rights in the PAC-10 and PAC-12 Marks. The Pacific-10 uses its PAC-10 Marks and PAC-12 Marks to identify and market the conference and its member universities via the PAC-10's website at www.pac-10.org, among other media channels. The PAC-10 has invested a substantial amount of time, money, and resources in connection with its promotional and sales activities under the PAC-10 Marks and PAC-12 Marks. As a result of these efforts, Complainant's trademarks have acquired significant recognition in the United States among all consumers, sports fans or not, and embody the substantial and valuable goodwill of the Pacific-10.

[20.] Recognition of the Pacific-10's trademarks extends beyond U.S. borders into Canada. The geographical proximity of Pacific-10 member universities to Canada (University of Washington – 153 miles to Canadian border; Washington State University – approximately 215 miles to Canadian border), plus the number of Canadian-born athletes competing for Pacific-10 member universities and former Pacific-10 athletes participating on both professional and Olympic teams in Canada, generate significant interest in the conference amongst Canadians. While not an exhaustive list, Pacific-10 athletes participate in the Canadian Football League, are members of the Toronto

Raptors of the National Basketball Association (NBA) and the Toronto Blue Jays of Major League Baseball (MLB), and 17 Pacific-10 student-athletes represented Canada in the 2008 Olympics. *See* Annex C.

[21.] Canada.com, owned by Canada's largest publisher (by circulation) of paid English-language daily newspapers, publishes numerous articles highlighting the Pacific-10 and Canadian athletes competing for Pacific-10 teams. See Annex G, which includes an article dating from January 2006. Pacific-10 football and basketball games have been broadcast by television in Canada by Rogers Sports Net from at least as early as February 2009 to the present, and Internet users worldwide, including in Canada, have been able to on demand stream select games since at least as early as 2002. All of Complainant's 20 "premier" football games in 2010 were broadcast in Canada by worldwide sports broadcast giant ESPN, which in turn were carried by Canada's premier sports channels (TSN and TSN2). *See* Annex C.

B. Background on Respondent Contactprivacy.com.

[22.] The Disputed Domain Name was registered through TrafficZ on July 8, 2005. When Complainant first became aware of the Disputed Domain Name in 2010, the only Registrant and Registrant Contact information available was an email address, holds.steve@gmail.com.

[23.] As recently as December 1, 2010, the website accessible at the Disputed Domain Name contained a number of sports-related links to goods and services such as ticket sales and athletic merchandise that competed directly with goods and services provided by Complainant. *See* Screenshots of <pac12.com> as of December 1, 2010, attached as Annex H. The Disputed Domain Name also appeared to be for sale, as the website contained a link entitled, "Inquire about this Domain." *See* link at top right corner of page 1 of Annex H. On December 1, 2010, Complainant attempted to contact the Registrant by letter sent from its legal counsel to the contact email provided on the WHOIS database (holds.steve@gmail.com). In the December 1 letter, a copy of which is attached as Annex I, Complainant set forth its trademark infringement and cybersquatting claims against Respondent based on Respondent's improper use of the Disputed Domain Name. Complainant never received a response from Respondent.

[24.] It appears, however, that Respondent probably received and took notice of the claims in the letter. The Disputed Domain Name registrant was switched to "Contactprivacy.com" and the Whols information for the disputed website appears to have been updated on the date of Complainant's letter, December 1, 2010. This was

apparently an effort to make Complainant's ability to obtain the actual identity of and contact the registrant more difficult. For example, Contactprivacy.com provides the following information about its service:

> *Welcome to contactprivacy.com*
> *Use this site to contact the owner of a domain name protected by the WHOIS Privacy Service. This service protects the privacy of domain name holders in the WHOIS system. Please note that domain name owners are not obligated to respond to requests. See* Screenshot at Annex J.

[25.] Additionally, sometime after December 1, 2010, the content of the Disputed Domain Name website was changed. The sports-related links described above were removed and replaced with a single screen offering a "12Pac from Tupac," which purports to offer for sale twelve CD music selections from the rap music artist Tupac Shakur. *See* Screenshot of Disputed Domain Name Website as of January 9, 2011 at Annex K. The "12Pac" is an obvious, yet hollow, attempt to provide a basis for use of the pac12.com domain name and create the appearance of a legitimate business enterprise.

[26.] Complainant has no relationship with the Respondent and has never authorized the Respondent to use the PAC-10 or PAC-12 Marks or to use the Disputed Domain Name.

C. **The domain name is virtually identical to the trademark in which the Complainant has rights.**
(Policy, Paragraph 4(a)(i); Rules, Paragraphs 3(b)(viii), (b)(ix)(1))

[27.] The Disputed Domain Name acquired by the Respondent is virtually identical to the Complainant's distinctive PAC-10 and PAC-12 Marks and fully incorporates the "PAC12" mark into the domain name. *See Rollerblade, Inc. v. Chris McCrady*, WIPO Case No. D2000-0429 (June 25, 2000) ("It is already well established that the specific top level of the domain name such as 'net' or 'com' does not affect the domain name for the purpose of determining whether it is identical or confusingly similar."); *Nintendo of America Inc. v. Alex Jones*, WIPO Case No. D2000-0998 (November 17, 2000) (a finding that the subject domain name is virtually identical to the complainant's mark leads to the conclusion that a domain name and mark are identical); *Credit Industriel et Commercial S.A. v. XUBO*, WIPO Case No. D2006-1268 (December 6, 2006) (disputed domain name wholly incorporated complainant's trademark and mere addition of generic ".com" TLD indicator did not affect domain name as being recognized as identical with trademark).

[28.] The requirement of Paragraph 4(a)(i) of the Policy is therefore satisfied in favor of the Complainant.

D. The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.
(Policy, Paragraph 4(a)(ii); Rules, Paragraph 3(b)(ix)(2))

[29.] Respondent is neither the owner nor the beneficiary of any trademark applications or registrations for any marks featuring either PAC-10 or PAC-12. In addition, Respondent did not register or begin using the Disputed Domain Name until well after (a) Complainant had begun extensively using its PAC-10 Marks to promote its goods and services associated with the collegiate athletic conference, and as a result had created widespread consumer recognition of the PAC-10 Marks to the degree that such marks had become well-known and famous in the United States and other jurisdictions and (b) the trademark priority date established by Complainant's trademark registrations for the PAC-10 Marks in the United States (specifically, 1981, when Complainant first secured registrations for its PAC-10 and PACIFIC-10 marks).

[30.] Up to at least December 1, 2010, the website for the Disputed Domain Name contained a number of sports-related links to goods and services such as ticket sales and athletic merchandise that competed directly with goods and services provided by Complainant. Upon information and belief, Respondent's website attempted to attract consumers, through confusion and suggestion that the Disputed Domain Name is affiliated with the Complainant, for Respondent's commercial gain. *See Sanofi-aventis v. Brad Hedlund,* WIPO Case No. D2007-1310 (November 13, 2007) (respondent's use of disputed domain name to provide links to websites where products in competition with complainant were for sale not a *bona fide* offering of goods or services in accordance with Policy ¶ 4(c)(i) and also not considered a noncommercial or fair use of the domain name without intent for commercial gain under Policy ¶ 4(c)(iii)); *see also Expedia, Inc. v. Compaid,* FA 520654 (Natl. Arb. Forum Aug. 30, 2005) (same finding regarding respondent's use of the <expediate.com> domain name to redirect Internet users to a website featuring links to travel services that competed with the complainant).

[31.] Because Complainant's PAC-12 mark was used at least up until December 1, 2010, in connection with athletic and sports related goods and services, consumers who arrived at Respondent's website were likely to be confused as to the source and sponsorship of Respondent's website by Complainant, and were likely to believe that

Respondent's website and the links it provided were similarly associated or endorsed by Complainant.

[32.] Respondent's removal of the sports-related links from the Disputed Domain Name, after receiving the December 1, 2010 letter from Complainant alleging trademark infringement and cybersquatting, is a thinly veiled attempt to match the goods and services purportedly being offered on the website to the Disputed Domain Name. Presumably, Respondent hopes that offering CDs of the rap artist Tupac Shakur, with "pac" being part of the rap artist's name, and conveniently offering twelve (12) CDs of the artist for sale, will cloak the illegitimate use of the Disputed Domain Name. *See Tia Carrere v. Steven Baxt*, WIPO Case No. D2005-1072 (November 28, 2005) ("This Panel finds that Respondent is not making fair use of Complainant's name (and mark) but is using the mark to attract Internet users to Respondent's website and then providing links to other sites having little or nothing to do with Complainant. Thus, the links contained on Respondent's website appear to be primarily commercial, and Respondent's offerings are not *bona fide*.")

[33.] Respondent's use of the PAC-12 Mark does not constitute a bona fide offering of goods and services pursuant to ICANN Policy 4(c)(i), or a legitimate noncommercial or fair use of the domain pursuant to ICANN Policy 4(c)(iii).

[34.] Further, there is no evidence that Respondent has ever been commonly known by the Disputed Domain Name or by any name including PAC-10 or PAC-12. (See Annex C ¶ 11). Respondent is in no way connected with Complainant and has no authority, license, permission, or other arrangement from Complainant to use the PAC-10 or PAC-12 Marks to identify Respondent's domain name, website, or any products or services offered and sold by Respondent.

[35.] The requirement of Paragraph 4(a)(ii) of the Policy is therefore satisfied in favor of the Complainant, as the Respondent does not have a legitimate interest in the Disputed Domain Name.

E. <u>The Disputed Domain Name was registered and is being used in bad faith.</u>
(Policy, paragraphs 4(a)(iii), 4(b); Rules, paragraph 3(b)(ix)(3))

[36.] Respondent acted in bad faith when it registered the Disputed Domain Name because it had actual knowledge of Complainant's registered PAC-10 mark prior to registering the Disputed Domain Name, as evidenced by the sports-related links included on Respondent's website up to at least December 1, 2010, and the underlying commercial websites to which they resolved, which offered goods and services in direct competition to those offered by Complainant. *See Advance Auto Innovations*

LLC v. Gary Lam, XC2, WIPO Case No. D2009-0688 (July 14, 2009) ("Numerous decisions ruled that actual knowledge of the Complainant at the time of the registration may indicate bad faith registration.")

[37.] Respondent acted in bad faith when it registered the Disputed Domain Name because it had constructive knowledge of Complainant's registered PAC-10 mark prior to registering the Disputed Domain Name by virtue of Complainant's U.S. trademark registrations. *See Lockheed Martin Corp. v. Allen Jarosz*, WIPO Case No. D2005-0361 (May 10, 2005) (finding bad faith because "Respondent registered the disputed domain names with actual or constructive knowledge of Complainant's rights in the marks due to Complainant's registrations of the marks with the USPTO and with trademark authorities worldwide, as well as to the immense fame that Complainant's marks have acquired"); *see also Delta Air Lines Inc. v. Ruslan Moussaev,* WIPO Case No. D2009-0718 (July 27, 2009) (actual or constructive knowledge of complainant's trademark rights a factor indicating bad faith registration and based upon complainant's longstanding use and multiple registrations of its trademark, panel found that that respondent had actual and constructive knowledge of complainant's trademark when registering domain name); *see also Merrell Pharms. Inc. v. Daniel Laforge,* FA 420671 (Natl. Arb. Forum March 31, 2005) (Respondent acted in bad faith when it registered ALLEGRA.COM because it had constructive knowledge of Complainant's rights in ALLEGRA, by virtue of Complainant's federal trademark registration, prior to registering the disputed domain name).

[38.] Respondent also acted in bad faith when it registered the Disputed Domain Name because it had constructive, if not actual, knowledge of Complainant's common law rights in the PAC-10 mark, prior to registering the Disputed Domain Name by virtue of more than thirty years of use of the PAC-10 mark by Complainant and Complainant's significant contacts with and recognition in Canada. *See Capotosto v. Steebar Corp.*, FA 135597 (Natl. Arb. Forum January 16, 2003) (upholding common law rights in a mark based on its long-term use to sell and market products). It is well-established that the ICANN Policy protects common law trademarks as well as registered marks. *See, e.g., Universal City Studios Inc. v. Burns,* WIPO Case No. D2001-0784 (October 1, 2000).

[39.] The fact that the Disputed Domain Name incorporates Complainant's entire distinctive trademark supports a finding of bad faith. (See *BellSouth Intellectual Property Corp. v. Melos ake Thomas Stergios*, WIPO Case No. DTV2001-0013 (September 16, 2001) ("[T]he use of Complainant's entire mark creat[es] an absence of any plausible use of the Domain Name that would constitute good faith"); *see also*

Ebay Inc. v. Wangming, WIPO Case No. D2006-1107 (December 28, 2006) ("There is substantial authority that registration of a domain name that is confusingly similar to a famous trademark by any entity that has no relationship to that mark is itself sufficient evidence of bad faith registration and use").

[40.] The Disputed Domain Name suggests that, at least prior to receiving Complainant's cease and desist letter, it was for sale because it contained a link providing: "Inquire about this Domain." See upper right portion of Annex H. Even though Respondent has not directly offered the Disputed Domain Name for sale to Complainant, an offer for sale can be inferred from these circumstances and thus constitutes bad faith use of the domain names by Respondent. *See Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments, Inc.*, WIPO Case No. D2002-0787 (October 8, 2002) (panel inferred offer of sale to the public despite lack of direct evidence that respondent offered to sell domain name to complainant); *see also Federated Western Properties, Inc. v. Mr. Faton Brezica aka "Its Me Haraqi" and "Its Me Pr,"* WIPO Case No. D2002-0083 (March 13, 2002) (panel found linking of domain name to a web page announcing simply "For Sale" with registrant's contact information constituted an offer to sell the domain name).

[41.] Respondent's actions reflect a bad faith attempt to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with Complainant's mark. *See J. Choo Limited v. Sinclare Vabalon, BHG,* WIPO Case No. D2008-1091 (September 1, 2008) (panel could not conceive of any good faith explanation for finding that respondent had intentionally attempted to attract for commercial gain Internet users to its website by creating a likelihood of confusion with the complainant's mark as to source, sponsorship, affiliation, or endorsement of that website); *see also Microsoft Corporation v. Paul Horner*, WIPO Case No. D2002-0029 (February 27, 2002) (panel determined respondent acted in bad faith by registering and using disputed domain name for purpose of directing Internet users to website for commercial purposes by creating confusion regarding complainant's sponsorship of or affiliation with site, even if respondent did not directly profit from use of complainant's mark).

[42.] The requirement of Paragraph 4(a)(iii) of the Policy is therefore satisfied in favor of the Complainant, as the Respondent acquired and has used the Disputed Domain Name in bad faith.

VII. Remedies Requested
(Rules, Paragraph 3(b)(x))

[43.] In accordance with Paragraph 4(i) of the Policy, for the reasons described in Section VI above, the Complainant requests the Administrative Panel appointed in this administrative proceeding issue a decision transferring ownership of the Disputed Domain Name (www.pac12.com) to the Complainant.

VIII. Administrative Panel
(Rules, Paragraph 3(b)(iv); Supplemental Rules, Paragraph 8(a))

[44.] The Complainant elects to have the dispute decided by a three-member Administrative Panel.

[45.] Complainant nominates the following three persons as potential appointees to the Administrative Panel:

1. Jeffrey H. Kaufman
   Oblon, Spivak, McClelland, Maier & Neustadt, PC
   Alexandria, VA, United States

2. Kevin C. Trock
   Alston & Bird, LLP
   Palo Alto, CA, United States

3. Perry Viscounty
   Latham & Watkins
   Costa Mesa, CA, United States

IX. Mutual Jurisdiction
(Rules, Paragraph 3(b)(xiii))

[46.] In accordance with Paragraph 3(b)(xiii) of the Rules, the Complainant will submit, with respect to any challenges that may be made by the Respondent to a decision by the Administrative Panel to transfer or cancel the domain name that is the subject of this Complaint, to the jurisdiction of the courts of Toronto, Ontario, Canada, which is the location of the principal office of Tucows, the concerned registrar, AND the domain name holder's address, as shown for the registration of the domain name in the Tucow's WhoIs database.

X. Other Legal Proceedings
(Rules, Paragraph 3(b)(xi))

[47.] The Complainant has not commenced or terminated any other legal proceeding in connection with or relating to www.pac12.com, which is the domain name that is the subject of the Complaint.

XI. Communications
(Rules, Paragraphs 2(b), 3(b)(xii); Supplemental Rules, Paragraphs 3, 4, 12)

[48.] A copy of this Complaint, together with the cover sheet as prescribed by the Supplemental Rules, has been sent or transmitted to the Respondent on January 31, 2011, by FedEx to:

Contactprivacy.com
96 Mowat Ave.
Toronto, ON M6K 3M1
Canada

Additional copies of this Complaint were sent to the Respondent by electronic mail to:

Holds.steve@gmail.com

pac12.com@contactprivacy.com

[49.] A copy of this Complaint has been sent or transmitted to the concerned registrar, Tucows Inc. on January 31, 2011, by FedEx to:

Tucows, Inc.
96 Mowat Ave.
Toronto, ON M6K 3M1
Canada

An additional copy of this Complaint was also sent to the concerned registrar, Tucows Inc. by electronic mail to:

compliance@opensrs.org

[50.] This Complaint is submitted to the Center in electronic form, including annexes, in the appropriate format.

XII. Payment

(Rules, Paragraph 19; Supplemental Rules Paragraph 10, Annex D)

[51.] As required by the Rules and Supplemental Rules, payment in the amount of USD $4,000.00 has been wire transferred to the WIPO Account IBAN CH68 0483 5063 0397 8200 0, Credit Suisse, 1211 Geneva 70, Switzerland, Swift Code: CRESCHZZ80A.

XIII. Certification

(Rules, Paragraph 3(b)(xiv); Supplemental Rules, Paragraph 14)

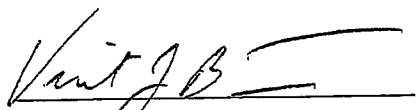
[52.] The Complainant agrees that its claims and remedies concerning the registration of the Disputed Domain Name, the dispute, or the dispute's resolution shall be solely against the domain name holder and waives all such claims and remedies against (a) the WIPO Arbitration and Mediation Center and Panelists, except in the case of deliberate wrongdoing, (b) the concerned registrar, (c) the registry administrator, and (d) the Internet Corporation for Assigned Names and Numbers, as well as their directors, officers, employees, and agents.

[53.] The Complainant certifies that the information contained in this Complaint is to the best of the 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 the Rules and under applicable law, as it now exists or as it may be extended by a good-faith and reasonable argument.

Dated: January 31, 2011

Respectfully submitted,

COOLEY LLP

By: 

Peter J. Willsey, Esq.
Vincent J. Badolato, Esq.

Attorneys for the Complainant
The Pacific-10 Conference

WIPO Decisions Referenced in the Complaint

Decision	Referenced at Page(s)
Rollerblade, Inc. v. Chris McCrady, WIPO Case No. D2000-0429 (June 25, 2000)	11
Nintendo of America Inc. v. Alex Jones, WIPO Case No. D2000-0998 (November 17, 2000)	11
Credit Industriel et Commercial S.A. v. XUBO, WIPO Case No. D2006-1268 (December 6, 2006)	11
Sanofi-aventis v. Brad Hedlund, WIPO Case No. D2007-1310 (November 13, 2007)	12
Expedia, Inc. v. Compaid, FA 520654 (Natl. Arb. Forum August 30, 2005)	12
Tia Carrere v. Steven Baxt, WIPO Case No. D2005-1072 (November 28, 2005)	13
Advance Auto Innovations LLC v. Gary Lam, XC2, WIPO Case No. D2009-0688 (July 14, 2009)	13-14
Lockheed Martin Corp. v. Allen Jarosz, WIPO Case No. D2005-0361 (May 10, 2005)	14
Delta Airlines Inc. v. Ruslan Moussaev, WIPO Case No. D2009-0718 (July 27, 2009)	14
Merrell Pharms. Inc. v. Daniel Laforge, FA 420671 (Natl. Arb. Forum March 31, 2005)	14
Capotosto v. Steebar Corp., FA 135597 (Natl. Arb. Forum January 16, 2003)	14
Universal City Studios Inc. v. Burns, WIPO Case No. D2001-0784 (October 1, 2000)	14
BellSouth Intellectual Property Corp. v. Melos ake Thomas Stergios, WIPO Case No. DTV2001-0013 (September 16, 2001)	14
Ebay Inc. v. Wangming, WIPO Case No. D2006-1107 (December 28, 2006)	15
Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments Inc., WIPO Case No. D2002-0787 (October 8, 2002)	15

Decision	**Referenced at Page(s)**
Federated Western Properties, Inc. v. Mr. Faton Brezica aka "Its Me Haraqui" and "Its Me Pr," WIPO Case No. D2002-0083 (March 13, 2002)	15
J. Choo Limited v. Sinclare Vabalon, BHG, WIPO Case No. D2008-1091 (September 1, 2008)	15
Microsoft Corporation v. Paul Horner, WIPO Case No. D2002-0029 (February 27, 2002)	15

(Copies of decisions are attached as Annex L)

XIV. List of Annexes

(Rules, Paragraph 3(b)(xv); Supplemental Rules, Paragraphs 4(a), 12(a), Annex E)

ANNEX	DESCRIPTION
A	WHOIS database search results for www.pac12.com
B	Tucows Domain Name Registration Agreement
C	Declaration of Woodie Dixon, Jr., Esq.
D	Articles announcing expansion of Pacific-10 Conference to Pacific-12 Conference
E	PTO Registration Certificates for PAC-10 Marks
F	Printouts of Applications with PTO for PAC-12 Marks
G	Sample Canadian articles about the Pacific-10 Conference
H	Selected screenshots from the Disputed Domain Name as of December 1, 2010
I	December 1, 2010 demand letter to Respondent
J	Screenshot of contactprivacy.com
K	Screenshot from the Disputed Domain Name as of January 9, 2011
L	Copies of referenced WIPO decisions