

Before the:

**WORLD INTELLECTUAL PROPERTY ORGANIZATION
ARBITRATION AND MEDIATION CENTER**

THE CITY OF NEW YORK,
c/o Office of the Corporation Counsel
New York City Law Department
100 Church Street
New York, NY 10007

and

NYC & COMPANY, INC.,
810 Seventh Avenue, 3rd Fl.
New York, NY 10019

(Complainants)

-v-

**NEW YORK T.V. SHOW TICKETS,
INC., a/k/a NEW YORK SHOW
TICKETS,**
244 Fifth Avenue, Suite 2094
New York, NY 1001-7604

(Respondent)

Disputed Domain Name(s):

www.nycvb.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 September 28, 2013, and in effect as of July 31, 2015, and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the **Supplemental Rules**) in effect as of July 31, 2015.

II. The Parties

A. The Complainants

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

- [2.] The Complainants in this administrative proceeding are *[provide full name and, if relevant, corporate or legal status.]*

Complainant, the City of New York, is a municipal corporation organized and existing under the laws of the State of New York.

Complainant, NYC & Company, is a not-for-profit corporation organized and existing under the laws of the State of New York.

- [3.] The Complainants' contact details are:

The City of New York and NYC & Company, Inc.

c/o Gerald E. Singleton, Esq.

Address: 100 Church Street, New York, NY 10007

Telephone: (212) 356-2036; (917) 734-7906

Fax: (212) 356-2038

Email: gsinglet@law.nyc.gov

[If there is more than one Complainant, provide the above information for each and arguments and evidence to support the consolidation of multiple Complainants in a single complaint in such cases, for example, where the multiple Complainants truly have a common grievance against the Respondent. Multiple Complainants may demonstrate a common grievance against the Respondent, for example, (1) where Complainants have a common legal interest in a relevant right or rights that are allegedly affected by the Respondent's conduct, or (2) where the multiple Complainants are the target of common conduct by the Respondent which has clearly affected their individual legal interests. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 4.11.]

Complainants have a common legal interest in the use of the acronym NYCVB to identify NYC & Company as the official convention and visitor bureau of the City of New York. NYC & Company has been the official convention and visitor bureau (CVB) of the City of New York for more than two decades. Respondent is using the disputed domain name and website, www.nycvb.com, to falsely state that it is the convention and visitor bureau for the five boroughs of the City of New York and to falsely suggest that its website and services are affiliated with and/or approved, sponsored or endorsed by the City of New York and/or NYC & Company.

- [4.] The Complainants' authorized representative in this administrative proceeding is:

Gerald E. Singleton, Esq.
Senior Counsel – Intellectual Property
Office of the Corporation Counsel of the City of New York
New York City Law Department
100 Church Street, Room 20-093
New York, NY 10007
(212) 356-2036
(917) 734-7906
gsinglet@law.nyc.gov

- [5.] The Complainants' preferred method of communications directed to the Complainants in this administrative proceeding is:

Electronic-only material

Method: Email

Address: gsinglet@law.nyc.gov; Trademarks@law.nyc.gov

Contact: Gerald E. Singleton, Senior Counsel

Material including hardcopy (where applicable)

Method: *Post/courier*

Address: New York City Law Department,
100 Church Street, Room 20-093, New York, NY 10007

Fax: (212) 356-2038

Contact: Gerald E. Singleton, Senior Counsel

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

- [6.] According to historical and current Registrant (GoDaddy) database records, the Respondent in this administrative proceeding is New York Show Tickets, Inc. c/o Domains By Proxy, LLC, Scottsdale, AZ; nycvb.com@domainsbyproxy.com. Copies of the printout of historical (as of 4/9/2009) and current database search conducted on 11/18,2020 as indicated in the footer of the printout are collectively provided as Annex 1.
- [7.] All information known to the Complainants regarding how to contact the Respondent is as follows:

Noel Turner, President and CEO

New York Show Tickets, Inc.
244 Fifth Avenue, Suite 2094
New York, NY 10001

New York Show Tickets Inc.
770 River Road #84
Edgewater NJ 07020

III. The Domain Name(s) and Registrar(s)

(Rules, Paragraphs 3(b)(vi), (vii))

- [8.] This dispute concerns the domain name(s) identified below:
www.nycvb.com. The current registrant is Domains By Proxy LLC, 14445 N. Hayden Road, Scottsdale, AZ 85260; (tel.) (480) 624-2599; (fax) (480) 624-2598; email: nycvb.com@domainsbyproxy.com. The domain was registered on April 2, 1999 and will expire on April 2, 2021.
- [9.] The registrar(s) with whom the domain name(s) is/are registered is/are:
GoDaddy.com LLC.

IV. Language of Proceedings

(Rules, Paragraph 11)

[Paragraph 11(a) of the Rules provides that, subject to the authority of the Panel, the language of the proceedings shall be the same as the language of the Registration Agreement unless the Parties have otherwise agreed to proceeding in a different language. In the absence of such agreement, a complainant may submit a complaint in a language different to the Registration Agreement where a complainant requests that the language of proceedings be the same as that of the complaint and provides brief supporting evidence, including such documentation as pre-complaint correspondence between the parties, the identity of the parties, the nationality and place of residence of the parties, and any other evidence of a respondent's familiarity with the requested language. See WIPO Overview 3.0, section 4.5.]

- [10.] To the best of the Complainant's knowledge, the language of the Registration Agreement is English. The Complaint has been submitted in English.

V. Jurisdictional Basis for the Administrative Proceeding

(Rules, Paragraphs 3(a), 3(b)(xiv))

- [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(s) that is/are the subject of this Complaint is/are registered, incorporates the Policy. A true and correct copy of the domain name

dispute policy that applies to the domain name in question is provided as Annex 2 to this Complaint and can be found at <https://www.godaddy.com/legal/agreements/domain-name-dispute-resolution-policy#:~:text=Our%20involvement%20in%20disputes,us%20in%20any%20such%20proceeding.>

VI. Factual and Legal Grounds

(Policy, Paragraphs 4(a), (b), (c); Rules, Paragraph 3)

[In completing this Section VI., do not exceed the 5000 word limit: Supplemental Rules, Paragraph 11(a). Relevant documentation in support of the Complaint should be submitted as Annexes, with a schedule indexing such Annexes. Such Annexes should be submitted in conformity with the Supplemental Rules, Paragraph 12(a), Annex E. Case precedents or commentaries, such as the WIPO Overview 3.0, that are referred to for support should be referred to with complete citations (where appropriate, reference may be made by inserting the relevant URL).]

[12.] This Complaint is based on the following grounds:

A. The domain name(s) is(are) identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(Policy, Paragraph 4(a)(i); Rules, Paragraphs 3(b)(viii), (b)(ix)(1))

Complainant NYC & Company, Inc. (“NYC & Company”) is a membership company, which was organized as a not-for-profit corporation and incorporated under the laws of the State of New York on November 21, 1935. NYC & Company’s membership includes more than 1600 businesses and not-for profit organizations. From 1935 until 1999, NYC & Company conducted business under the name New York Convention and Visitors Bureau, Inc., a/k/a NYCVB, and it acquired common law rights in the acronym NYCVB as a service mark for the services it provided as a destination marketing organization (DMO) and as a convention and visitor bureau (CVB).

Since prior to 1997, NYC & Company has been the official destination marketing organization (DMO) and convention and visitors bureau (CVB) for the Complainant, the City of New York, with a mission to maximize travel and tourism opportunities

throughout the City, build economic prosperity and spread the dynamic image of New York City around the world.

In June 1997, NYC & Company began using a stylized logo with the acronym NYCVB, which was registered with the United States Patent & Trademark Office on the principal register in International Class 35 as a service mark for promoting business and tourism in the New York Metropolitan area (U.S. Reg. No. 2209069, registered December 8, 1998) as follows:



A copy of the stylized NYCVB logo service mark registration is annexed hereto as Annex 3.

Since 2008, NYC & Company has maintained a robust website at www.nycgo.com, which it uses to promote business and tourism for the City of New York. Since April 6, 2009, NYC & Company has owned the following eight (8) domain names, which incorporate the NYCVB acronym and redirect to www.nycgo.com:

www.nycvb.biz;

www.nycvb.info;

www.nycvb.me;

www.nycvb.mobi;

www.nycvb.net;

www.nycvb.org;

www.nycvb.us; and

www.nycvb.ws.

Complainant, the City of New York, is domain registry operator of the .nyc top level domain (TLD), which was delegated to the DNS root zone by ICANN on March 20, 2014. The registry website is www.ownit.nyc. Notably, the domain names www.nycvb.nyc and www.nyccvb.nyc have been placed on the .nyc Reserved and Restricted Names List by the City of New York (see <https://www.ownit.nyc/restricted-reserved>) to preserve them for possible future use by the Complainants and/or and to

prevent the improper use of such domain names by unscrupulous parties such as Respondent.

In 1999, the corporate name of Complainant NYC & Company was formally changed from New York Convention and Visitor Bureau to NYC & Company by a corporate resolution dated September 16, 1999, and Complainant stopped using the stylized NYCVB logo around the same time, although the NYCVB acronym and stylized logo continued to be used by some of NYC & Company's members until 2005. A copy of the name change corporate amendment and assignment of the NYCVB service mark to NYC & Company is annexed hereto as Annex 4.

In 2018, NYC & Company began using a new stylized logo with the acronym NYCCVB, which was registered with the United States Patent & Trademark Office on the principal register in International Class 35 as a service mark for promoting business and tourism in the New York Metropolitan area (U.S Reg. No.6040004, registered April 28, 2020), as follows:



A copy of the stylized NYCCVB logo service mark registration is annexed hereto as Annex 5.

The new stylized NYCCVB logo incorporates chunky block NYC letters, **NYC**, which are used in the name of every city agency and are federally registered as trademarks and service marks for many classes of goods and services. See U.S. Reg. Nos. 3668124, 3921788 and 3858973.

NYC & Company recently resumed using the stylized NYCVB logo, **NYCVB**, as a service mark to identify itself and has filed an application with the United States Patent & Trademark Office to register the stylized NYCVB logo as a service mark. See U.S. Serial No. 90252199, filed October 13, 2020, a copy of which is annexed hereto as Annex 6.

Both the stylized NYCVB logo and the new stylized NYCCVB logo prominently appear side-by-side in the footer of every page on the www.NYCgo.com website. See

specimens included with the stylized NYCVB service mark application, copies of which are included in Annex 6.

Based on NYC & Company's long-standing use of the NYCVB acronym, and notwithstanding the multi-year hiatus in its use of the stylized NYCVB logo, the NYCVB acronym has continued to be singularly associated with NYC & Company in the minds of consumers, as evidenced by the fact that internet searches for "NYCVB" produce numerous results showing that NYCVB is singularly associated with NYC & Company by third parties.

The domain name in dispute, www.nycvb.com, is identical to the corporate name that was used by Complainant NYC & Company from 1935 to 1999 and it is identical and/or substantially similar to the applied for and registered service marks as presently used by Complainant NYC & Company in the conduct of its business.. The use of the NYCVB acronym and www.nycvb.com website by Respondent is likely to cause consumer confusion regarding the source of the parties' competing services and, in fact, has caused actual confusion in the minds of consumers, who mistakenly believe that Respondent's website is sponsored, endorsed, or otherwise affiliated with Complainants.

B. The Respondent has no rights or legitimate interests in respect of the domain name(s);

(Policy, Paragraph 4(a)(ii); Rules, Paragraph 3(b)(ix)(2))

- *[In accordance with Rules, Paragraph 3(b)(ix)(2), describe why the Respondent should be considered as having no rights or legitimate interests in respect of the domain name(s) that is/are the subject of the Complaint. Attention should be paid to any relevant aspects of the Policy, Paragraph 4(c), including:*
 - *Whether before any notice to the Respondent of the dispute, there is any evidence of the Respondent's use of, or demonstrable preparations to use, the domain name(s) or a name corresponding to the domain name(s) in connection with a bona fide offering of goods or services;*
 - *Whether the Respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if the Respondent has acquired no trademark or service mark rights;*
 - *Whether the Respondent is making a legitimate non-commercial or fair use of the domain name(s), without intent for commercial gain*

misleadingly to divert consumers or to tarnish the trademark or service mark at issue.]

Respondent has no rights or legitimate interest in respect of the domain name www.nycvb.com based on the following facts:

The www.nycvb.com website does not identify Respondent as the source and origin of the website, nor does it identify any legitimate business as the source and origin of the website. The www.nycvb.com website uses a non-existent Manhattan address as the address for Respondent.

Respondent is not in fact a CVB. The term CVB is commonly understood in the relevant market and by the relevant consuming public as designating an organization that is funded and/or affiliated with a local government to promote tourism. See <https://destinationsinternational.org/frequently-asked-questions> (“What is a CVB?”). NYC & Company has a contract with and is paid by the City of New York to promote tourism in its capacity as the official convention and visitor bureau of the City of New York. Respondent, on the other hand, has no relationship with the City of New York and its use of the term NYCVB is knowingly false and designed to trade on consumer confusion.

Noel Turner is the President and CEO of Respondent New York T.V. Show Tickets, Inc., a/k/a New York Show Tickets Inc., which was incorporated in 1997 under the laws of the State of New Jersey, with its principal place of business located at 770 River Road, Edgewater, NJ 07020. New York Show Tickets was previously a member of NYC & Company from 1998 to 2000 and then again from about 2006 to 2011.

Respondent has no offices or employees in New York. It maintains a “virtual” office at 244 Fifth Avenue #2094, New York, NY 10001, which is serviced by Aero Beep and Voicemail Services, a/k/a NY Mail, which has an office on the 2nd floor at 244 Fifth Avenue. New York Show Tickets filed for and obtained authority to conduct business in the State of New York as a foreign corporation on April 28, 1998, but such authority was dissolved by proclamation on June 26, 2002, and Respondent has no legal authority to presently conduct business in New York State, much less represent that it is a destination and marketing organization (DMO) and convention and visitor bureau

(CVB) for the City of New York. Respondent has no affiliation whatsoever with the City of New York and it is not a DMO or CVB for the City of New York.

On April 2, 1999, Respondent registered the domain name www.nycvb.com, which for much of its existence, up until around May 2014, was linked to another website owned by Respondent, www.nytix.com that was clearly identified as originating with New York T.V. Show Tickets or New York Show Tickets. However, from approximately May 2014 to September 2017, Respondent caused traffic to the www.nycvb.com website to be redirected to Complainant NYC & Company's website.

In or around March 2018, Respondent revised the content of the website to indicate that it originated with the "New York Convention & Visitor Bureau", with an address at 12 Times Square. Respondent, however, had never been known or identified as the New York Convention & Visitor Bureau and there is no such address in New York City. The building depicted on the website does not exist and the address listed on the website, 12 Times Square, is a purely fictitious address.

Ironically and despite NYC & Company's lack of use of the stylized NYCVB logo for several years, Respondent's use of the www.nycvb.com website without identifying that Respondent is the source of the website has only served to reinforce the well-ingrained public association of the acronym NYCVB with NYC & Company based on the decades of prior use of the name and acronym by NYC & Company.

In late November 2018, NYC & Company discovered that the www.nycvb.com website was populated with copyrighted images, photos and articles taken from NYC & Company's website, and that the website was then masquerading as a website originating with NYC & Company. There was no indication whatsoever that the www.nycvb.com website originated with Respondent.

On December 3, 2018, NYC & Company sent a cease and desist letter by email to Respondent complaining of the infringement of its copyrighted materials and the improper use of the www.nycvb.com website, which demanded that Respondent disable the www.nycvb.com website and transfer the domain name to NYC & Company, but Respondent has refused to comply with said demand. A copy of the C&D letter sent to Respondent is annexed as Annex 7.

C. **The domain name(s) was/were registered and is/are being used in bad faith.**
(Policy, paragraphs 4(a)(iii), 4(b); Rules, paragraph 3(b)(ix)(3))

- *[In accordance with Rules, Paragraph 3(b)(ix)(3), describe why the domain name(s) should be considered as having been registered and used in bad faith by the Respondent. Attention should be paid to any relevant aspects of the Policy, Paragraph 4(b), including:*
 - *Circumstances indicating that the domain name(s) was/were registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration(s) to the owner of the trademark or service mark (normally the Complainant) or to a competitor of that Complainant, for valuable consideration in excess of the Respondent's out-of-pocket costs directly related to the domain name(s); or*
 - *Whether the domain name(s) was/were registered in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or*
 - *Whether the domain name(s) was/were registered primarily for the purpose of disrupting the business of a competitor; or*
 - *Whether by using the domain name(s), the Respondent intentionally attempted to attract for commercial gain, Internet users to the 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 the Respondent's web site or location or of a product or service on the Respondent's web site or location.]*

The domain name in dispute, www.nycvb.com, should be considered as having been registered and used in bad faith by Respondent based on the following facts:

Respondent was a previously a member of NYC & Company and it knew at all relevant times that the consuming public associated the NYCVB acronym with NYC & Company, including when it first acquired the domain name and started using it.

In 2007, Respondent registered the domain name www.nycandcompany.com, apparently for the purpose of interfering with NYC & Company's business. Upon

learning of the registration, NYC & Company made a demand on Respondent to transfer the domain name to NYC & Company, and the domain name was transferred without the need for legal action. It is evidence of a pattern of conduct by Respondent of attempting to trade on the goodwill of NYC & Company and interfere with its business.

As noted above, in 2018, Respondent copied and incorporated images, photos and text from NYC & Company's website and www.nycvb.com website for the purpose of masquerading as NYC & Company and thereby trade on the goodwill already associated with the NYCVB acronym and divert business from NYC & Company with the use of false contact information.

Respondent has recently begun using the www.nycvb.com website to make disparaging remarks about NYC & Company. The following statement appears on the website at <https://www.nycvb.com/recovery-covid-19/>:

NYC and Company Faces Hopeless Task of a NYC Recovery

The new team at NYC and Company, which is a pseudo government agency that attempts to promote tourism and commerce in NYC, is wholly unqualified for the troubled time ahead that NYC will face in coming years. It may be under their watch that NYC finally goes down the tubes, at least for now. NYC and Company, which is headed by Fred Dixon and is supported on the board by the vile Charles Flateman, is a wholly inappropriate choice for leadership in these troubled times. Even the limited skills of Nancy Mammana, Janette Roush, Kelly Curtin, Jerry Cito and Elan Cole will not help overcome the monumental challenge, which may be somewhat futile given the terrible circumstances they have been dealt. It also doesn't help that these individuals have their own poor track records in troubled times and have only succeeded in times of plenty. What NYC needs now is a Winston Churchill, not a cadre of city hall sycophants.

Respondent also uses the www.nycvb.com website to masquerade as the official DMO and CVB for the City of New York and to attack and disparage NYC & Company as the "self proclaimed official Destination Marketing Company of NYC."

The About Us page for the Complainants' www.NYCgo.com website describes NYC & Company and its Mission as follows:

Our Mission

NYC & Company is the official destination marketing organization (DMO) and convention and visitors bureau (CVB) for the five boroughs of New York City. Our mission is to maximize travel and tourism opportunities throughout the City, build economic prosperity and spread the dynamic image of New York City around the world.

A 501(c) 6 private corporation, NYC & Company represents the interests of nearly 2,000 member organizations across the spectrum of businesses and organizations in the City.

NYC & Company provides resources for visitors to discover everything they need to know about what to do and see in NYC. In addition to an integrated market development team with a focus on group, meeting/convention, leisure and events motivated travel, our communications network promotes visitation from around the globe. Together with satellite convention sales offices in the US to develop group business, NYC & Company's marketing efforts—both consumer and business facing—position the City to attract business and leisure travelers.

See <https://business.nycgo.com/about-us/who-we-are>

Respondent's www.nycvb.com website, on the other hand, contains an About Us page with a mission statement that falsely suggests that it is the official DMO and CVB for the City of New York, as follows:

The NYCVB Mission

The New York Convention and Visitors Bureau (NYCVB) is a destination marketing organization dedicated to developing tourism and trade for the five boroughs of New York City including: Manhattan, The Bronx, Brooklyn, Queens and Staten Island. The NYCVB has been providing tourism services for over 25 years and looks forward to the next 25 years with a new management team dedicated to developing trade and tourism relationships with both domestic and world travelers and businesses.

Even though the outside boroughs of New Jersey and the Westchester County cities of Yonkers and Mount Vernon are well outside the NYC catchment area (and not officially members of NYCVB), they often get into the act as the sixth and seventh boroughs respectively, given their close proximity to NYC. Many NYC visitors and conferences may also find themselves in these outside boroughs when conference space and hotel accommodations in NYC become overwhelmed, especially during the holiday.

In representing NYC we provide a full suite of services for conventions and visitors to NYC, to make the convention and visitors experience, the very best it can be. From planning a small event to a massive 10,000+ person conference, the NYCVB can help provide all the right services that will help the sponsors and organizers deliver on their goal of a conference that the participants will remember. Leveraging its deep relationships with business, commerce, hotels

and the NYC Mayors office, The NYCVB can help bring NYC experiences and events that are truly memorable.

The foregoing statements on Respondent's www.nycvb.com website concerning the identity and mission of the NYCVB are false because Respondent is not a CVB and it is not affiliated with the City of New York. NYC & Company is the only official DMO and CVB of the City of New York. Respondent does not have "deep relationships" with "the NYC Mayors (sic) office."

Respondent's www.nycvb.com website has recently added a new section devoted to NYC Restaurant Week, which is a semiannual program organized, sponsored and promoted by NYC & Company, which offers discounts at NYC leading restaurant for two week periods in the winter and summer each year. Compare <https://www.nycvb.com/restaurant-week-deals/> with . <https://business.nycgo.com/press-and-media/press-releases/articles/post/nyc-winter-outing-is-now-live-aligning-nyc-restaurant-week-nyc-broadway-week-and-nyc-must-see-week/>. NYC Restaurant Week is one of three signature programs sponsored by NYC & Company. Respondent has no connection or affiliation with NYC Restaurant Week.

Respondent's www.nycvb.com website is littered with false statements that disparage NYC & Company and various NYC attractions. See, e.g., <https://www.nycvb.com/restaurant-week-deals/> ("The main reason that the the (sic) event is called 'NYC Restaurant Week' is that the term was trademarked by the self proclaimed official Destination Marketing Company of NYC known online as 'NYCgo'. There are a few instances of the marketing agency buying the trademark, with the first one being in 2005. The same marketing company also owns the rights to 'NYC Broadway Week'"); <https://www.nycvb.com/top-ten-worst-attractions-nyc/> ("Everyone likes to talk about the best attractions in NYC, but what are the worst ones? We are listing the top ten worst attractions in NYC. These range from the tired, old, boring, stuffy and overrated experiences in NYC that visitors and locals should avoid. This does not mean that our editors do not love NYC, as we also list the Top Ten Attractions here.").

As noted above, Respondent uses a fictitious address (12 Times Square) on the www.nycvb.com with accompanying picture of a building that does not exist. This is part of a pattern by Respondent of using false and fictitious information in the conduct of its business.

For example, Respondent maintains another website at www.nytx.com, which contains fictitious names and biographies for its alleged employees. The “Corporate Team” shown in the About Us section of the www.nytx.com website does not exist and the information in the About Us section is fabricated . See <https://www.nytx.com/about-us>. The biographical sketches of the “Corporate Team” shown in the www.nytx.com website are wholly fictional and the photographs of the individuals allegedly comprising the “Corporate Team” are stock photographs used by many other websites. The stock photograph is available for purchase at <https://www.gograph.com/photo/happy-business-team-3-gg3871958.html>. Other uses of the same stock photographs appear on many unrelated websites. See, e.g.,

<http://onesourcecoaching.com/what-people-say/>

<https://yellow.co.nz/y/kyne-management-christchurch-2>

<http://telecontinent.com.my/slideshow/our-people/>

<http://onesourcecoaching.com/>.

Respondent’s use of a picture of a non-existent building and a non-existent address on the www.nycvb.com website to identify its purported corporate headquarters, coupled with its failure to obtain proper authority to conduct business in the State of New York are further evidence of bad faith on the part of Respondent.

Respondent’s continuing use of the www.nycvb.com website and its use of the NYCVB acronym as a domain name has resulted in actual consumer confusion regarding source, endorsement and affiliation of the Respondent’s website. On September 24, 2020, NYC & Company received the following inquiry from a third party consumer:

General Contact Us

Contact Information	
First Name:	Barry
Last Name:	Popik
Email:	Bapopik@aol.com
Comments/Question:	I'm confused. What is the NYCVB (https://www.nycvb.com/)? I thought that was you!...100 years ago, track writer John J. Fitz Gerald called New York City "the Big Apple." The nickname was popularized in the 1970s by

the NYCVB. I would like to email someone about it...<https://www.dailymail.co.uk/news/article-7914753/Historian-traces-origin-New-York-Citys-nickname-Big-Apple-100-years-1920.html>

VII. Remedies Requested

(Rules, Paragraph 3(b)(x))

- [13.] In accordance with Paragraph 4(i) of the Policy, for the reasons described in Section VI. above, the Complainants request the Administrative Panel appointed in this administrative proceeding that the disputed domain name be transferred to Complainant NYC & Company.

VIII. Administrative Panel

(Rules, Paragraph 3(b)(iv); Supplemental Rules, Paragraph 8(a))

- [14.] The Complainants elect to have the dispute decided by a single-member Administrative Panel.

IX. Mutual Jurisdiction

(Rules, Paragraph 3(b)(xii))

- [15.] In accordance with Paragraph 3(b)(xii) of the Rules, the Complainants 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(s) that is/are the subject of this Complaint, to the jurisdiction of the courts at the location of the domain name holder's address, as shown for the registration of the domain name(s) in the concerned registrar's Whois database at the time of the submission of the Complaint to the Center.

X. Other Legal Proceedings

(Rules, Paragraph 3(b)(xi))

- [16.] *[If any, identify other legal proceedings that have been commenced or terminated in connection with or relating to the domain name(s) that is/are the subject of the Complaint and summarize the issues that are the subject of that/those proceeding(s).]*

No other legal proceedings have been commenced or terminated by Complainants in connection with or relating to the domain name that is the subject of this Complaint.

XI. Communications

(Rules Paragraph 3(b), Supplemental Rules, Paragraphs 3, 4, 12)

- [17.] This Complaint has been submitted to the Center in electronic form, including annexes, in the appropriate format.
- [18.] A copy of this Complaint has been transmitted to the concerned registrar) on November 19, 2020 in electronic form in accordance with paragraph 4(c) of the Supplemental Rules.

XII. Payment

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

- [19.] As required by the Rules and Supplemental Rules, payment in the amount of USD \$1500.00 has been made by credit card. *(Payment by credit card should be made using the Center's [secure online payment facility](#). For any payment-related queries or difficulties, please contact the Center Secretariat on (+41 22) 338 8247, or email the Center at arbiter.mail@wipo.int).*

XIII. Certification

(Rules, Paragraph 3(b)(xiii); Supplemental Rules, Paragraph 15)

- [20.] The Complainants agrees that its claims and remedies concerning the registration of the domain name(s), 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(s), (c) the registry administrator, (d) the Internet Corporation for Assigned Names and Numbers, as well as their directors, officers, employees, and agents.
- [21.] The Complainants certify that the information contained in this Complaint is to the best of the Complainants' 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.

Respectfully submitted,



/s/Gerald E. Singleton

Gerald E. Singleton

Senior Counsel –

Intellectual Property

NYC Law Department

100 Church Street,

Room 20-093

New York , NY 10007

(212) 356-2036

(917) 734-7906

gsinglet@law.nyc.gov

Attorney for

Complainants

Date: November 19, 2020

XIV. List of Annexes

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

[22.] The Rules provide that a Complaint or Response, including any annexes, shall be submitted electronically. Under the Supplemental Rules, there is a file size limit of 10MB (ten megabytes) for any one attachment, with an overall limit for all submitted materials of no more than 50MB (fifty megabytes).

[Additionally, to avoid any uncertainty, it is requested that any Annexes (and their corresponding filenames) be clearly labeled and sequentially numbered (i.e. Annex 1, 2, 3 etc), and a complete list of Annexes supplied].

[23.] In particular, paragraph 12 and Annex E of the Supplemental Rules provides that, other than by prior arrangement with the Center, the size of any individual file (such as a document in Word, PDF or Excel format) transmitted to the Center in connection with any UDRP proceeding shall itself be no larger than 10MB. When larger amounts of data need to be transmitted, larger files can be “split” into a number of separate files or documents each no larger than 10MB. The total size of a Complaint or response (including any annexes) filed in relation to a UDRP dispute shall not exceed 50MB, other than in exceptional circumstances (including in the case of pleadings concerning a large number of disputed domain names) where previously arranged with the Center.

The Annexes to the Complaint are as follows:

- Annex 1: Historical and current WHOIS registrar information for www.nycvb.com
- Annex 2: GoDaddy Dispute Resolution Policy
- Annex 3: Stylized NYCVB logo service mark registration
- Annex 4: Name change corporate amendment and assignment of NYCVB service mark to NYC & Company
- Annex 5: Stylized NYCCVB logo service mark registration
- Annex 6: Stylized NYCVB logo service mark registration
- Annex 7: C& D letter dated 12.3.2018 sent to Respondent