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Fed. R. Evid. 408 Settlement Communication

April 3, 2025

Via Email Only

Trey V. Perez
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Re: HHCA Registry Dispute

Dear Trey:

I am writing in response to your letter to Will Manske, dated March 18, 2025. I will be handling this matter going forward. We appreciate your response and willingness to remediate some of the problems we have articulated. Unfortunately, some of the information you have been provided is inaccurate, and we hope that, once you appreciate those inaccuracies, your client will be willing to undertake the other items necessary to resolve this matter.

I. Naming Conventions

Your client has either mischaracterized or misunderstands the AHCA naming convention. Indeed, this is even demonstrated by the inconsistency in your letter. You note that “when a new member farm joins AHCA, the new farm provides two or three options for an abbreviation of their farm to AHCA, *and AHCA assigns one of these options to them based on availability.*” AHCA assigns herd letters, not farm letters – and they are not the same thing. Farm letters are chosen by the farm owner. And if that farm registers with AHCA, they may propose that those same letters be used as AHCA herd letters. But whether that is an option will depend on whether another AHCA farm is already using those letters. Ultimately, the AHCA herd letters are unique to each AHCA member and they may be, but aren’t always, the same as the member’s farm letters.

Moreover, letters used to designate a farm in a proposed name are not the same as the AHCA naming convention. To register an animal with AHCA, that animal must be registered with a name that follows AHCA's naming convention. The AHCA naming convention requires something – which could include, but is not limited to, farm or herd letters – that designates the farm from which the animal comes. Thus, the ultimate decision about whether that name meets the AHCA requirements rests with AHCA – not the member. Your letter goes on to state: "Any farm that is a member of both AHCA and HHCA can choose to identify itself however it wants." This is inaccurate. As explained above, an individual member cannot identify itself however it wants unless and until AHCA agrees. "*AHCA may reject* any registration request that uses herd or animal names or markings it deems confusing, over-lengthy or otherwise inappropriate." Rules and Regulations at I. E. (emphasis added). Accordingly, because – whether they realize it or not – AHCA members are following an AHCA naming convention when they register their animals. Therefore, those names – as registered – are AHCA specific.

For instance, to take your example of LSR Spirit, there is no animal registered with AHCA as LSR Spirit. But if there were, its name would remain LSR Spirit – *as registered with AHCA*. But that AHCA name cannot be used then as a registered name in HHCA. It could use Laughing Sun Spirit, Spirit – LS, or other variations, but not "LSR Spirit."

Please confirm that HHCA will cease using AHCA-registered names in its directory.

II. Tattoo

HHCA also misunderstands the AHCA tattoo. AHCA requires animals in its registry to be tattooed in a manner *unique to and dictated by AHCA* in both content and form:

VI. Marking. All animals registered shall first be *properly* marked, with markings described on the registry application. Each owner shall have an AHCA-approved herd designation of 1, 2 or 3 letters, and these plus the year of birth (number of the year *or the letter equivalent assigned by AHCA*) and the *unique* number of the animal shall be tattooed in the ear(s). AHCA recommends this order of placement: *herd designation + unique number + year*.

Examples: WY14N = animal number 14 born on WY ranch in 2024
 FE1424 = animal number 14 born on FE ranch in 2024

(Bold emphasis added). This convention is clearly copyrightable as *Feist* provides:

The compilation author typically chooses *which facts to include, in what order to place them, and how to arrange the collected data so that they may be used effectively by readers*. These choices *as to selection and arrangement*, so long as they are made independently by the compiler and entail a minimal degree of creativity, are sufficiently original that Congress may protect such compilations through the copyright laws. Thus, even a directory that contains absolutely no protectible written expression, only facts, meets the constitutional minimum for copyright protection *if it features an original selection or arrangement*.

Feist Publications, Inc. v. Rural Tel. Serv. Co., 499 U.S. 340, 348 (1991) (emphasis added and internal quote omitted).

AHCA even assigns different letters to years as shown [here](#). Moreover, AHCA makes clear that: “All cattle must be tattooed properly before submitting the registration application. The tattoo should include the original owner’s herd letters (approved by AHCA), unique number and year the calf was born (number of the year or letter equivalent assigned by AHCA).” Indeed, if the tattoo does not meet these requirements or uses the same tattoo as an already-registered animal, AHCA requires that the tattoo be modified. Accordingly, the format is designed and compiled by AHCA and entitled to copyright protection and using those tattoos on the HHCA registry infringes that copyright.

Please confirm that HHCA will cease using AHCA’s tattoo in its directory.

III. AHCA Registration Numbers

We appreciate HHCA’s willingness to cease the use of AHCA’s registration numbers. But an AHCA animal’s name and tattoo are functionally the same as the AHCA’s registration numbers – information unique to AHCA.

IV. Removing References to AHCA’s Herdbook

You asked for clarification on this point. We are simply asking that all references to AHCA-copyrighted material – like the AHCA-registered names and tattoos – are removed and that, going forward, HHCA does not link to or use AHCA information in its herdbook.

V. Removing AHCA's Pedigree Information and Scraping

We appreciate your representation that HHCA will not scrape the AHCA registry going forward. But we question HHCA's representation that it "merely takes information provided from individual cattle owners providing on HHCA's intake forms to fill out its registry." Most troublingly, and the biggest indication of scraping using copyright-infringing AHCA registration numbers, is the fact that approximately half of the AHCA-referenced animals were all registered in the HHCA herdbook on November 9, 2022. For example, *see* [U Rock Lady Larissa](#), [HSC Rebel's Jack](#), [Sunset Rebel Yell](#), and [Ledyard's Talisker](#) – just to name a few. The fact that nearly half of HHCA's herdbook was registered on the same day is highly indicative of scraping using AHCA's copyrighted information to do so.

Moreover, we note that the HHCA form only asks for an animal's sire and dam and grandsire and granddam, not its pedigree. And yet, the HHCA database has thousands of animals' pedigrees. But it is evident that many of those animals were not registered with HHCA. For instance, the pedigree of CBS Yaz's Yukon Jack goes back six generations on the sire line in the HHCA herdbook. And yet, it does not appear that anyone has registered that animal in the HHCA herdbook. Please explain how this animal and its pedigree – and many others – were added to the HHCA herdbook if not registered by the animal's owner.

In sum, we have reason to believe that many of the pedigrees that exist from HHCA-registered animals are the result of HHCA's infringement of AHCA's copyrighted registration numbers. We understand that AHCA-registered animals used to appear in the pedigrees of animals in the HHCA herdbook with their AHCA name and their AHCA registration number listed as an "Alt-reg #", suggesting that HHCA utilized AHCA's copyrighted material to register animals in its herdbook. Please explain what the Alt-reg # is, what it was used for, and whether it resulted in the pedigrees of numerous AHCA animals being listed in the HHCA herdbook.

We look forward to continuing to work with you as we resolve these issues.

Very truly yours,



Anne M. Lockner