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April 24, 2025

VIA E-MAIL & U.S. MAIL
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Anne M. Lockner
Robins Kaplan
800 LaSalle Avenue, Suite 2800
Minneapolis, MN 55402

Re: HHCA Registry Dispute
Our File No. 35872.1

RULE 408 SETTLEMENT COMMUNICATION
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE FOR ANY OTHER PURPOSE

Dear Anne:

I write in response to your letter dated April 3, 2025. Through previous correspondence, it seems we have resolved the following issues: (a) Heartland Highland Cattle Association (“**HHCA**”) has agreed to remove American Highland Cattle Association’s (“**AHCA**”) registration number as an “alternate registration” within HHCA’s registry; and (b) HHCA has agreed to continue its practice of not scraping AHCA’s registry. We have the following remaining items to resolve: (i) animal naming conventions; (ii) animal tattooing conventions;¹ and (iii) animal pedigree information. I address the three remaining points below with a hope that we can resolve this dispute amicably, but with an understanding that HHCA will litigate the issue if necessary.

I. Naming Conventions.

I will begin by stating that no misrepresentation was made as to how herd letters are assigned, and it remains HHCA’s belief that these herd letters are ultimately the property of their author, the applicant-farmer who originally sets them in a tangible medium of expression. *See* 17 U.S.C. § 102(a) (“Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression...”); 17 U.S.C. § 201(a) (“Copyright in a work protected under this title vests initially in the author or authors of the work.”). Attached hereto as **Exhibit A** is a true and

¹ As the “Removing References to AHCA’s Herdbook” issue we have previously discussed ultimately seems to boil down to the naming and tattooing conventions, it does not seem necessary to continue addressing it as a separate issue. HHCA does not link to AHCA’s information in its herdbook, and, as outlined below, maintains that an animal’s name and tattoo number are not information to which AHCA has an exclusive intellectual property interest.

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correct copy of AHCA's Application for Membership. As outlined on Exhibit A, the applicant is asked to provide "three different choices of three letter combinations" for herd letters. The copyright in these herd letter combinations are the property of the original author—i.e., the applicant farmer—as they are the party that sets the work in a tangible medium of expression. The applicant farmer, as the author of the work, has certain exclusive rights, including the right to reproduce the work and display it publicly. 17 U.S.C. § 106(1) & 106(5). AHCA has no exclusive rights in an individual farmer's herd letters, and only has rights to protect the collective work of all AHCA herd letters on AHCA's registry.

As outlined in your letter, the herd letters are not the only piece of AHCA's supposed naming conventions. As suggested in your letter, AHCA also requires the animal's name to include information designating where the animal is from. As outlined in my prior correspondence, AHCA has no intellectual property protection in the idea of including a designation for an animal's place of origin, as this has been a long-standing animal husbandry practice. This idea is not subject to copyright protection (17 U.S.C. § 102(b)) and AHCA has no current patent on the idea because it lacks the novelty and non-obvious requirements of 35 U.S.C. §§ 102-103.

While AHCA's rules and regulations dictate that AHCA may reject a registration request for failing to follow AHCA's alleged "naming conventions," the fact remains true that a member of HHCA can identify its cattle how the member pleases. As with the herd letters addressed above, the full name of an animal is authored by the individual farmer raising the animal. The farmer is the copyright owner with exclusive rights to dictate how the animal's name is used and where it appears. AHCA has no right to control how that farmer identifies its animals on non-AHCA registries. HHCA does not

Ultimately, the suggestion that HHCA remove listings for animals following "AHCA naming conventions" is untenable and unreasonable for a number of reasons. First, AHCA does not own the animal, individual farmers do. The person who owns the cattle is the one with the power to name it. How that farmer elects to identify that animal on HHCA's registry is up to that farmer and HHCA. HHCA does little to control the names of animals on its registry, merely requiring that the animal's name is 24 characters or less, all in English or Roman numerals, ensuring it does not contain another farmer's designation of farm or herd letters, and is not an exact duplicate of a previously registered animal. *See* HHCA Rule 3.3.1. So long as the animal's name meets these minor requirements, HHCA does not edit or otherwise change the name of its member's animals, merely taking the application as is and filling it out on the registry. Second, HHCA does not know how it could possibly ensure it is not "using AHCA-registered names in its directory" without cross-checking AHCA's registry when reviewing all applications HHCA receives. This is something HHCA will not do, and something it seems AHCA does not want to happen. Finally, the suggestion of having multiple names for the same animal does not serve anyone and will only cause confusion, generate distrust among breeders, and sully the breed in the long run.

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II. Tattoos.

As outlined in my previous correspondence, AHCA is not the author of individual tattoos. Namely, AHCA's website and registration form provide that the animal is tattooed prior to registration with AHCA. Attached hereto as **Exhibit B** is a true and correct copy of AHCA's Application for Entry American Highland Cattle Association Registry. As with the animal's name, an individual tattoo is fixed in a tangible medium not by AHCA, but by the individual farmers. AHCA's application for cattle to be registered asks for the tattoo information for the applicant's cattle, indicating that the cattle has been tattooed prior to AHCA receiving the application. Thus, the individual applicant farmer authors the tattoo both when it is fixed onto the cow's ear, and again when it is fixed onto AHCA's application form. At no point prior to this does AHCA author an individual tattoo.

HHCA will not be requiring its members to tattoo a single animal two times when the farmers are ultimately the author of the work with exclusive rights in the copyright. HHCA Rule 7.5 provides that tattoos on a registration certificate will not be changed. The suggestion of requiring a single animal to have multiple tattoos simply because the farmer wants to list their animal on multiple registries will only lead to confusion and mistrust amongst members of the highland cattle community. Thus, HHCA will continue to promulgate its own tattooing recommendations and hopes members utilize them; however, HHCA plans to list the information provided on an application for the tattoo, regardless of how it is formatted. Again, HHCA would need to cross-reference AHCA's registry every time an application came in to verify that it was not "using AHCA's tattoo in its directory," a practice HHCA will not take up.

III. Removing AHCA's Pedigree Information.

HHCA has not scraped data from AHCA's registry. Your previous correspondence suggests that AHCA still believes HHCA scraped data from AHCA's registry because a large number of HHCA's registered animals have a November 9, 2022 registration date. This is the date when HHCA's registry "went live" to the public; thus, a large number of applications were processed on that day. Prior to that, the registry consisted of a small number of HHCA members ensuring that the software program HHCA selected worked for its registry purposes. Thus, prior to November 9, 2022, HHCA registered 840 animals across a small number of members. During this pre-November 9, 2022 period, other applications were received and prepared for processing, and on November 9, 2022, there was an influx of 1,004 applications processed. Following November 9, 2022, HHCA has processed and registered 2,231 other animals.

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Regarding HHCA's registry having more than an animal's sire, dam, grandsire, and granddam, I have been told that some applications for HHCA registration do not fill out HHCA's application form, and instead attach the animal's registration with other registries. This provides additional information on an animal, including additional pedigree information. As outlined in my previous correspondence, the fact that a particular animal sired another is a fact not subject to copyright protection, and receiving this information from an individual cattle owner deciding to share it does not give rise to an infringement claim.

IV. Conclusion.

In short, HHCA has agreed to cease using AHCA's registration numbers on its own registry as an "alternate registration" and agreed to not scrape data from AHCA's registry (an action that HHCA has never taken). HHCA has explained how it obtains data on its registry, and its practices do not amount to infringement as AHCA's own members provide the publicly available information to HHCA during the application process. Moreover, the pedigree information consists of facts not reasonably subject to copyright protection.

HHCA will not force a member farmer to use two different names and two different tattoos for the same animal across two registries. This is because AHCA has no intellectual property rights in its alleged "naming conventions" and is not the original author of any individual herd letters or tattoos. The suggestion that a single animal have multiple names and tattoos would only lead to confusion and a greater degree of distrust within the highland cattle industry, and from a practical perspective, could not function without HHCA cross-referencing AHCA's registry, something HHCA refuses to do and AHCA has indicated it does not want to occur.

* * *

Reservation of Rights. HHCA does not intend this letter to be a full recitation of the facts or its positions in this matter. HHCA's investigation of this matter is ongoing. Nothing stated or not stated in this letter shall be construed as a waiver of HHCA's rights or an admission against its interests. HHCA fully reserves all, and does not waive any, of its rights in connection with this matter.

Sincerely,



Trey V. Perez

TVP:elm
Enclosures

**All remittances are placed to the credit of the remitter subject to the application being satisfactory for acceptance.

Official No. _____ Fee _____ Entered _____ Received _____

Application for Entry American Highland Cattle Association Registry

Name _____ Color: Red Black Brindle Dun Yellow Silver White
Use 30 or Less Letters/Spaces (Circle One)

Birth Date: ____/____/____ Sex: Female ____ Male ____ Tattoo: Right Ear _____
Month Day Year Left Ear _____

Breeder _____ of _____
The owner of the dam at the time she was served. Town, State

Original Owner _____ of _____
The owner of the dam at the time she calved. Town, State

Sire _____ Color _____ Reg. No. _____
Name of the sire for the animal being registered.

Dam _____ Color _____ Reg. No. _____
Name of the dam for the animal being registered.

I hereby certify and declare the above is a true and correct statement and I desire to have the same recorded with the American Highland Cattle Association.

Signed _____
Signature of Original Owner

Date Signed ____/____/____ Address _____
Month Day Year Complete Address

Breeding Certificate

I hereby certify that my bull _____
Name of Bull
Reg. No. _____ served the within named dam on ____/____/____
Month Day Year
If pasture bred, was exposed from ____/____/____ to ____/____/____.
Month Day Year Month Day Year
Signed _____
Complete Address _____

Breeding Certificate: The above Breeding Certificate must be completed by the owner of the sire, if he/she was not the owner of the dam at the time she was served. If the service was by Embryo Transplant (ET), this application must be accompanied by paperwork issued by the embryo transplant firm and approved by AHCA.

The original owner of the animal to be registered must be a member of the American Highland Cattle Association at the time AHCA receives this application.

Original Owner: This registration application must be completed and signed by the original owner (owner of the dam at the time she calved). If you are the second owner, then the animal must be transferred to you by the seller on a transfer application.

Tattoo: Each animal must be tattooed at the time AHCA receives the registration application and it should include: herd letters, unique animal number and year of birth (number of the year or letter equivalent assigned by AHCA). Herd letters must be recorded and approved by AHCA. The Association suggests placing the entire tattoo in the left ear.

Records: It is highly recommended to keep accurate private records on your cattle. Whenever an application is considered questionable, the burden of proof of its validity rests upon the applicant.

Cancellation: Any entry subsequently found to be erroneous or fraudulent shall be canceled and the certificate recalled.