

Council for Refractive Surgery )  
Quality Assurance, )  
a nonprofit California corporation )  
8543 Everglade Drive )  
Sacramento CA 95826 )  
USA )  
916-381-0769 )  
glenn.hagele@usaeyes.org )

**(Complainant)** )

v. )

Brent Hanson )  
P.O. Box 868 )  
Seattle WA 98111 )  
USA )  
919-323-6090 )  
brentahanson@netscape.net )

**(Respondent)** )

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**Domain Names In Dispute:**  
USAEYES.INFO  
USAEYES.NET  
USAEYES.BIZ  
USAEYES.US

**COMPLAINT IN ACCORDANCE WITH  
THE UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY**

[1.] This Complaint is hereby submitted for decision in accordance with the Uniform Domain Name Dispute Resolution Policy, adopted by the Internet Corporation for Assigned Names and Numbers (ICANN) on August 26, 1999 and approved by ICANN on October 24, 1999 (ICANN Policy), and the Rules for Uniform Domain Name Dispute Resolution Policy (ICANN Rules), adopted by ICANN on August 26, 1999 and approved by ICANN on October 24, 1999, and the National Arbitration Forum (NAF) Supplemental Rules (Supp. Rules).

[2.] **COMPLAINANT INFORMATION**

- [a.] Name: Council for Refractive Surgery Quality Assurance  
a nonprofit California corporation (USAeyes).
- [b.] Address: 8543 Everglade Dr. Sacramento, CA, 95826-3616
- [c.] Telephone: 916-381-0769
- [d.] Fax: 206-237-6545
- [e.] E-Mail: glenn.hagele@usaeyes.org

**Complainant Authorized Representative**

- [a.] Name: Glenn Hagele, Executive Director
- [b.] Address: 8543 Everglade Dr., Sacramento, CA, 95826-3616
- [c.] Telephone: 916-381-0769
- [d.] Fax: 206-237-6545
- [e.] E-Mail: glenn.hagele@usaeyes.org

The Complainant's preferred method for communications directed to the Complainant in the administrative proceeding:

**Electronic-Only Material**

- [a.] Method: email
- [b.] Address: glenn.hagele@usaeyes.org
- [c.] Contact: Glenn Hagele

**Material Including Hard Copy**

- [a.] Method: fax
- [b.] Address/Fax: 206-237-6545
- [c.] Contact: Glenn Hagele

The Complainant chooses to have this dispute heard before a single-member administrative panel.

[3.] **RESPONDENT INFORMATION**

- [a.] Name: Brent Hanson
- [b.] Address: PO Box 868, Seattle, WA, 98111
- [c.] Telephone: 919-323-6090
- [d.] Fax: n/a
- [e.] E-Mail: brentahanson@netscape.net

[4.] **DISPUTED DOMAIN NAME(S)**

- [a.] The following domain name(s) is/are the subject of this Complaint:

USAeyes.INFO  
USAeyes.NET  
USAeyes.BIZ

USAEYES.US

[b.] Registrar Information:

- [i.] Registrar's Name: Tucows, Inc,  
doing business as DomainDirect
- [ii.] Registrar Address: 96 Mowat Avenue, Toronto, ON M6K 3M1
- [iii.] Telephone Number: 416-535-0123
- [iv.] E-Mail Address: info@tucows.com

[c.] Trademark/Service Mark Information:

Complainant has maintained a common law trade mark by virtue of continuous use of the mark USAEYES to uniquely identify its public persona and services it provides with various notification of trade mark and all rights reserved on each website page since 1998. (Annex 01)

Complainant applied to the US Patent and Trademark office for registration of the USAEYES mark on 9 November 2006, subsequently receiving registration on 9 October 2007. (Annex 02)

Respondent was aware of Complainant's application for registration of USAEYES mark (Annex 03), however did not offer a viable objection of issuance of mark or complaint regarding application of mark to the US Patent and Trademark office.

The mark USAEYES has been used by Complainant since 1998, and currently, to uniquely identify its vision correction surgery eye care (Lasik, etc.) patient advocacy services, physician information, eye health information, consumer alerts, and surgeon certification services. (Annex 04)

Complainant intends to continue using the mark in perpetuity for the services and information it currently provides and intends to use the mark in the future for additional eye care patient related services including, but not limited to, physician certification, physician information, patient advocacy, consumer alert, and dissemination of health related information.

[5.] **FACTUAL AND LEGAL GROUNDS**

**This Complaint is based on the following factual and legal grounds:**

- [a.] Complainant is a nonprofit nongovernmental Lasik patient advocacy providing patient related services including, but not limited to, physician certification, physician information, patient advocacy, consumer alert, and dissemination of health related information.

Complainant has published a website at the domain USAEYES.ORG from November 1998 to present. (Annex 05)

Complainant has owned the domain USAEYES.COM from 07 January 2000 to present. (Annex 06)

At all times Complainant has automatically redirected visitors from the USAEYES.COM domain to the USAEYES.ORG domain.

Founder of Complainant organization, Glenn Hagele, has maintained the toll-free telephone number 1-800-USA-EYES (800-872-3937) since 1984, such phone number was transferred to Complainant in 1997 and is currently Complainant's toll-free telephone number.

Complainant's USAEYES mark has been used to identify Complainant in news articles in the Wall Street Journal, New York Times, Washington Post, National Public Radio, US News & World Report (Annex 07), CNN, and O! The Oprah Magazine, and other media. (Annex 08)

Complainant applied to the HealthOnTheNet Foundation for accreditation of the USAEYES website in late 2005 with initial accreditation review beginning 26 July 2006 and full accreditation on 28 July 2007. (Annex 09)

Complainant is commonly known as USAEyes.

The domains USAEYES.BIZ, USAEYES.INFO, USAEYES.NET, and USAEYES.US acquired by Respondent are identical and confusingly similar to the USAEYES trade mark and the USAEYES.ORG and USAEYES.COM domains owned and actively used by Complainant since 1998 and 2000 respectively.

**[b.] The Respondent has no rights or legitimate interests in respect of the domain names;**

Respondent purchased the USAEYES.BIZ (Annex 10), USAEYES.INFO (Annex 11), USAEYES.NET (Annex 12), and USAEYES.US (Annex 13) in October of 2006, approximately eight years after Complainant's first use of the mark at USAEYES.ORG.

Respondent began publishing a website at USAEYES.INFO on or about 6 November 2006, approximately eight years after Complainant's first use of the mark at USAEYES.ORG.

Respondent subsequently caused visitors to USAEYES.BIZ, USAEYES.NET, and USAEYES.US to be redirected to USAEYES.INFO.

Respondent announced the use of Complainant's trade mark and identical domain as public postings in the alt.lasik-eyes Usenet newsgroup, which Complainant's Executive Director frequents in regard to patient information services provided by Complainant. (Annex 14, Annex 15, Annex 16).

Respondent subsequently created more than 100 postings in the alt.lasik-eyes Usenet newsgroup and other Internet forums using Complainant's trade mark and identical domain. (Too voluminous to attach)

Respondent offers no bona fide goods or services with the use of the Complainant's USAEYES trade mark or any domain identical to the mark.

Respondent has never been commonly known as USAEYES as an individual, business, or other organization.

Respondent's use of the Complainant's trade mark USAEYES and identical domains is a "negative commercial use". Respondent may not seek direct financial gain by use of the domains, but Respondent seeks direct negative financial gain – a financial loss – on Complainant, Complainant's employee(s), Complainant's associates, and Complainant's financial supporters. Respondent's profit is in causing his targets a loss.

Respondent achieves his personal profit by causing confusion and takes unfair advantage of the reputation, recognition, and good will of the USAEYES trade mark built by Complainant.

Respondent's use of Complainant's trade mark USAEYES and identical domains is not a legitimate non-commercial or fair use of the domain names, but is a deliberate and calculated bad faith attempt to tarnish the trade mark at issue, cause confusion, and misdirect Internet users to Respondent's website, and takes unfair advantage of the reputation, recognition, and good will of the USAEYES trade mark built by Complainant.

[c.] **The domain names were registered and are being used in bad faith.**

The primary purpose of Respondent's use of Complainant's trade mark and identical domains subject to this arbitration is to harass, defame, threaten, cause financial harm, and to disrupt the function of Complainant, Complainant's governing Board of Trustees, Complainant's founder and Executive Director Glenn Hagele, Complainant's volunteers, and Complainant's financial supporters.

Respondent has a long history of abusive use of domains in his attempt to cause harm to his targets and confusion in the public.

Complainant has issued "cease and desist" notices to Respondent in an attempt to protect its copyright and trade mark as early as April 2002 (Annex 17)

Respondent has harassed, cyber-stalked, defamed, and invaded the privacy of Complainant's founder Glenn Hagele resulting in litigation in California Superior Court by Mr. Hagele against Respondent. (Annex 18)

Respondent published on websites he controls (Annex 19) the personal identity of Complainant's founder Glenn Hagele, including his Social Security number,

driver's license number, bank account numbers, and credit card numbers. This critically important private information continues to be published at various locations on the Internet, exposing Complainant's founder to international identity theft. (Annex 20)

Respondent purchased the domain GLENNHAGELE.COM in March 2004, publishing derogatory and defaming statements about Mr. Hagele at this domain. In November 2004 Mr. Hagele retrieved the domain without arbitration. (Annex 21)

Respondent's website has created confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's web site or location of a service on Respondent's website. In example;

- [i] Respondent has employed meta tag information including the title "USAEYES –Glenn Hagele - Executive Director" to confuse Internet users that Complainant's Executive Director Glenn Hagele is affiliated with Respondent's website (Annex 22), and to cause Respondent's website to appear in search engine results for key terms relevant to Complainant.(Annex 23, Annex 24)
- [ii] A function of Complainant is to evaluate vision correction surgeons (Lasik) patient outcomes, issuing certification to those doctors who meet or exceed Complainant's outcome requirements and continue to meet or exceed Complainant's requirements. Respondent has published on his website a list of "Surgeons Endorsed by Glenn Hagele" that included surgeons who have been de-certified by Complainant and surgeons who have never been certified by Complainant, causing confusion regarding the certification status and patient outcome achievement of Lasik doctors. (Annex 25). *Note: Due to conversion incompatibility some images in Annex 25 are not visible.*
- [iii] Respondent employed exactly the same techniques of domain abuse and harassment in Washington CeaseFire v. Private Registration, National Arbitration Forum claim No: FA0705000985159, June 27, 2007. Immediately after the Forum decided to transfer washingtonceasefire.COM domain from Respondent, Respondent moved the offending website to washingtonceasefire.NET.

#### [6.] **REMEDY SOUGHT**

The Complainant requests that the Panel issue a decision that the domain-names USAEYES.INFO, USAEYES.NET, USAEYES.BIZ, and USAEYES.US be transferred to Complainant.

#### [7.] **OTHER LEGAL PROCEEDINGS**

Litigation referenced herein brought by Complainant's founder Glenn Hagele in California Superior Court, Sacramento Case No. 06AS00839, against Respondent Brent Hanson, is brought by Glenn Hagele as an individual and not on behalf of Complainant, a corporation. Furthermore, said litigation is for defamation and invasion of privacy and not relevant to the issue of disputed domains.

**[8.] COMPLAINT TRANSMISSION**

The Complainant asserts that a copy of this Complaint, together with the cover sheet as prescribed by NAF's Supplemental Rules, has been sent or transmitted to the Respondent (domain-name holder), in accordance with ICANN Rule 2(b) and to the Registrar(s) of the domain name(s), in accordance with NAF Supp. Rule 4(e). ICANN Rule 3(b)(xii); NAF Supp. Rule 4(c).

**[9.] MUTUAL JURISDICTION**

The Complainant will submit, with respect to any challenges to a decision in the administrative proceeding canceling or transferring the domain name, submit jurisdiction to the location of the principal office of the concerned registrar.

**[10.] CERTIFICATION**

Complainant agrees that its claims and remedies concerning the registration of the 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 National Arbitration Forum and panelists, except in the case of deliberate wrongdoing, (b) the registrar, (c) the registry administrator, and (d) the Internet Corporation for Assigned Names and Numbers, as well as their directors, officers, employees, and agents.

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

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "G. Hagele", written in a cursive style.

Glenn Hagele, Executive Director  
Council for Refractive Surgery Quality Assurance

Thursday, December 05, 2007

## Schedule of Annex

Annex Number and Original Filename	Annex Description
Annex 01-USA EYES-Website-Archive.pdf	Archive Example of Complainant's Website published at USA EYES.ORG.
Annex 02-USA EYES-Trademark Registration.pdf	Complainant's US Patent and Trade Mark registration of the mark USA EYES.
Annex 03-Knowledge-of-Application .pdf	Post on alt.lasik-eyes Usenet newsgroup attributed to Respondent affirming knowledge of Complainant's application to the US Patent and Trade Mark office for registration of the mark USA EYES.
Annex 04-USA EYES-Website-Current.pdf	Current Example of Complainant's Website published at USA EYES.ORG.
Annex 05-USA EYES.ORG-WhoIs.pdf	Current WhoIs information of Complainant's USA EYES.ORG domain.
Annex 06-USA EYES.COM-WhoIs.pdf	Current WhoIs information of Complainant's USA EYES.ORG domain.
Annex 07-USNews.pdf	US News & World Report article referencing Complainant's USA EYES.ORG domain.
Annex 08-Oprah.pdf	O!, The Oprah Magazine article referencing Complainant's USA EYES.ORG domain.
Annex 09-USA EYES-HONcode.pdf	Health On The Net accreditation of Complainant's website published at USA EYES.ORG.
Annex 10-USA EYES.BIZ-WhoIs.pdf	Current WhoIs information of Respondent's USA EYES.BIZ domain.
Annex 11-USA EYES.INFO-WhoIs.pdf	Current WhoIs information of Respondent's USA EYES.INFO domain.
Annex 12-USA EYES.NET-WhoIs.pdf	Current WhoIs information of Respondent's USA EYES.NET domain.
Annex 13-USA EYES.US-WhoIs.pdf	Current WhoIs information of Respondent's USA EYES.US domain.

Annex 14-Respondent-re-USA EYES.US-alt.lasik-eyes.pdf	Post on alt.lasik-eyes Usenet newsgroup attributed to Respondent directing Internet users to the USA EYES.US domain.
Annex 15-Respondent-re-USA EYES.BIZ-alt.lasik-eyes.pdf	Post on alt.lasik-eyes Usenet newsgroup attributed to Respondent directing Internet users to the USA EYES.BIZ domain.
Annex 16-Respondent-re-USA EYES.INFO-alt.lasik-eyes.pdf	Post on alt.lasik-eyes Usenet newsgroup attributed to Respondent directing Internet users to the USA EYES.INFO domain.
Annex 17-Cease-Desist-April-19-2002.pdf	April 19, 2002 email from Complainant to Respondent demanding cessation of use of Complainant's copy rights and trade marks.
Annex 18-Glenn Hagele v Brent Hanson.pdf	First amended complaint filed individually by Complainant's Executive Director Glenn Hagele in California Superior Court, Sacramento, against Respondent Brent Hanson for defamation and invasion of privacy.
Annex 19-LASIKFRAUD.COM-WhoIs.pdf	Current WhoIs information of Respondent's LASIKFRAUD.COM domain.
Annex 20-Glenn-Hagele-Identity.pdf	One of 45 documents published at Respondent's LASIKFRAUD.COM domain that reveal's Complainant's Executive Director's name, address, driver's license number, Social Security number, bank account numbers, credit card numbers, and samples of Glenn Hagele's signature.
Annex 21-GLENNHAGELE.COM-WhoIs-Archive.pdf	Archived WhoIs information of domain GLENNHAGELE.COM showing Respondent's previous ownership.
Annex 22-USA EYES - Glenn Hagele - Executive Director.pdf	Page from website published by Respondent at USA EYES.INFO indicating Glenn Hagele is Executive Director of Respondent's website.
Annex 23-Google Search.pdf	Google search engine results page for the term "glenn hagele" showing Respondent's page published at the domain USA EYES.INFO indicating Complainant's Executive Director Glenn Hagele is Executive Director of Respondent's website (item four).

<p>Annex 24-Google Search.pdf</p>	<p>Google search engine results page for the term “site:usaeyes.info” showing multiple pages published at Respondent’s domain USAEYES.INFO indicating each page is affiliated with Complainant.</p>
<p>Annex 25-USA EYES - Surgeons Recommended By Glenn Hagele - Executive Director.pdf</p>	<p>Page from website published by Respondent at USAEYES.INFO indicating Complainant’s Executive Director Glenn Hagele has endorsed a list of doctors including doctors never certified by Complainant or de-certified by Complainant.</p>