

COMPLAINT TRANSMITTAL COVERSHEET

Attached is a Complaint that has been filed against you with the World Intellectual Property Organization (**WIPO**) Arbitration and Mediation Center (the **Center**) pursuant to 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.

The Policy is incorporated by reference into your Registration Agreement with the Registrar(s) of your domain name(s), in accordance with which you are required to submit to a mandatory administrative proceeding in the event that a third party (a **Complainant**) submits a complaint to a dispute resolution service provider, such as the Center, concerning a domain name that you have registered. You will find the name and contact details of the Complainant, as well as the domain name(s) that is/are the subject of the Complaint in the document that accompanies this Coversheet.

Once the Center has checked the Complaint to determine that it satisfies the formal requirements of the Policy, the Rules and the Supplemental Rules, it will forward an official copy of the Complaint, including annexes, to you by email as well as sending you hardcopy Written Notice by post and/or facsimile, as the case may be. You will then have 20 calendar days from the date of Commencement within which to submit a Response to the Complaint in accordance with the Rules and Supplemental Rules to the Center and the Complainant. You may represent yourself or seek the assistance of legal counsel to represent you in the administrative proceeding.

- The **Policy** can be found at <https://www.icann.org/resources/pages/policy-2012-02-25-en>
- The **Rules** can be found at <https://www.icann.org/resources/pages/udrp-rules-2015-03-11-en>
- The **Supplemental Rules**, as well as other information concerning the resolution of domain name disputes can be found at <http://www.wipo.int/amc/en/domains/supplemental/eudrp/newrules.html>
- A **model Response** can be found at <http://www.wipo.int/amc/en/domains/respondent/index.html>

Alternatively, you may contact the Center to obtain any of the above documents. The Center can be contacted in Geneva, Switzerland by telephone at +41 22 338 8247, by fax at +41 22 740 3700 or by email at domain.disputes@wipo.int.

You are kindly requested to contact the Center to provide an alternate email address to which you would like (a) the Complaint, including Annexes and (b) other communications in the administrative proceeding to be sent.

A copy of this Complaint has also been sent to the Registrar(s) with which the domain name(s) that is/are the subject of the Complaint is/are registered.

By submitting this Complaint to the Center the Complainant hereby agrees to abide and be bound by the provisions of the Policy, Rules and Supplemental Rules.

Before the:

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

*Mr. Gary Wilson of
535 Grandview Drive, Ashland, Oregon
97520*

(Complainant)

-v-

*Mr. Daniel Burgess
Family Life Services
1085 Tasman Dr. SPC 366
Sunnyvale, CA 94089*

And

*Liberos LLC & Dr. Nicole Prause of
1601 Wilshire, Los Angeles, California
90025*

(Respondent)

Disputed Domain Name(s):

REALYOURBRAINONPORN.COM

Case Number: D2019-1544

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 Complainant

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

[2.] The Complainant in this administrative proceeding is Mr. Gary Wilson, a United States citizen residing in Ashland, Oregon. The Complainant refers to himself as “Wilson” and “Complainant” in this Complaint.

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

Address: 535 Grandview Drive, Ashland, Oregon 97520
Telephone: 541-488-3830
Fax: Not applicable
Email: palpateit@hotmail.com

[4.] The Complainant’s authorized representative in this administrative proceeding is:

Contact: Alisa C. Simmons
Firm: Fitch, Even, Tabin & Flannery LLP
Address: 120 S. LaSalle St., Suite 2100
Chicago, IL 60603
Telephone: 312-577-7000
Fax: 312-577-7007
Email: asimmons@fitcheven.com

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

Electronic-only material

Method: email
Address: asimmons@fitcheven.com
Contact: Alisa Simmons

Material including hardcopy (where applicable)

Method: post/courier/facsimile

Address: Fitch Even Tabin & Flannery LLP
120 South LaSalle Street, Suite 2100
Chicago, IL 60603
Fax: 312-577-7007
Contact: Alisa C. Simmons

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

[6.] According to the revealed Whois details provided by WIPO on July 8, 2019, for the registrant (previously screened via the privacy services of Privacy Inc. Customer 0154207478, believed to be affiliated with the Registrar Tucows, Inc.), the Respondent in this administrative proceeding is **Mr. Daniel Burgess of Family Life Services**, with the address of 1085 Tasman Dr. SPC 366, Sunnyvale, CA 94089, USA. The Complainant has also identified **Dr. Nicole Prause of Liberis LLC** as suspected as being connected to the Respondent or a principal affiliate of the Respondent that directs actions of Respondent as to the disputed domain name and corresponding web address. Copies of the printout of the Whois database search conducted on June 29, 2019, are provided as Annex 1. A copy of the July 8, 2019, email from WIPO revealing the registrant details provided by Tucows after the initial filing of this Complaint is attached as Annex 1.5

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

Per the Registrant information provided by Tucows Registrar after filing the Complaint:

Name: Daniel Burgess of Family Life Services

Address: 1085 Tasman Dr. SPC 366, Sunnyvale, CA 94089, USA

Email: Daniel.burgess@gmail.com

Phone: +1.4088135671

Per the Registrant/Administrative and Technical Contact Information from Whois Record (at time of filing Complaint):

Contact: Privacy Inc. Customer 0154207478

Address: 96 Mowat Ave, Toronto, Ontario, M6K 3M1, Canada

Phone: +1.4165385457

Additional email addresses: realyourbrainonporn.com@contactprivacy.com and scienceofarousal@gmail.com (from contact email address provided at RealYourBrainOnPorn.com site)

Per pre-Complaint communications with Dr. Prause:

Contact: Dr. Nicole Prause

Email address: nprause@liberoscenter.com

Postal addresses: Liberos LLC, 11601 Wilshire, Los Angeles, CA 90025

Liberos LLC, 1650 Veteran Avenue, Los Angeles, CA 90024 (from California Secretary of State business entity records)

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

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

[8.] This dispute concerns the domain name(s) identified below:

REALYOURBRAINONPORN.COM

[9.] The registrar(s) with which the domain name(s) is/are registered is/are:

Registrar:	Tucows, Inc. (http://tucowsdomains.com)
Address:	96 Mowat Ave., Toronto, ON Canada M6K 3M1
Telephone:	(416) 535-0123
Email:	domainabuse@tucows.com; legal@tucows.com info@tucows.com

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 2 to this Complaint. The Complaint has been submitted in English and to the best of the Complainant's

knowledge, the parties reside in the United States and Canada and know English. As such, the Complainant requests that the language of the proceedings be 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. The disputed domain name was registered on March 13, 2019. A true and correct copy of the domain name dispute policy that applies to the domain name(s) in question is provided as Annex 2 to this Complaint and can be found at https://opensrs.com/wp-content/uploads/Tucows_ExhibitA.html.

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

[12.] Gary Wilson, doing business as Your Brain On Porn (“Wilson”), owns and uses the trademark YOUR BRAIN ON PORN for his informational and educational services and website providing resources about the effects of viewing pornography and ways to address pornography-related disorders. Since at least as early as November, 2019, Wilson has owned and used the matching YourBrainOnPorn.com domain name as the web address for his Your Brain On Porn website. See Annex 3. Respondent Burgess (along with affiliate Prause) dislikes Wilson, his Your Brain On Porn brand, and his views on the effects on the brain of viewing pornography. Respondent Burgess (and Prause) have long known of Wilson and purposefully put the adjective “Real” in front of Wilson’s trademark and registered and unfairly uses the RealYourBrainOnPorn.com domain name for its competing website where Respondent expresses its conflicting views on pornography.

On RealYourBrainOnPorn.com, Respondent has even boldly featured a banner on the top of every page stating, “Welcome to the REAL Your Brain On Porn.” See Annex 4. Trademark law protects consumers from being confused by the use of significantly similar trademarks. Here, Respondent purposefully chose a trademark and web address to confuse consumers. Respondent just put the word “Real” in front of Wilson’s trademark. Respondent does not need to use Wilson’s trademark as a source identifier or as a web address to

communicate its views on the effects of viewing pornography. Respondent clearly knows this because of the other web address, ScienceofArousal.com, that Respondent first used for its competing website before launching and using the disputed domain name. See Annex 5 showing appearance of Respondent's website at the address ScienceofArousal.com circa April 14, 2019. The contact email address provided on Respondent's RealYourBrainOnPorn.com website is even scienceofarousal@gmail.com, illustrating that the RealYourBrainOnPorn.com site is affiliated with Respondent's ScienceofArousal.com website. For what can only be bad faith reasons, on April 18, 2019, Respondent, describing itself as a group of "scientists and therapists who are experts in human sexuality have come together to provide accurate information to the public," deliberately switched its web address from ScienceofArousal.com to RealYourBrainOnPorn.com. See Annex 6, Respondent's April 18, 2019, press release. As Annexes 3 and 4 show, Respondent titles the content of its site as "Science of Arousal and Relationships". Rather than using the matching ScienceofArousal.com web address (originally used for its site), Respondent instead uses RealYourBrainOnPorn.com. The April 18, 2019, press release advertises Respondent's RealYourBrainOnPorn.com site as a "new resource for sex film science," encouraging consumers to "check out the new website www.realyourbrainonporn.com for the latest research, news, and expertise on sex film science." Annex 6. Respondent's RealYourBrainOnPorn.com domain name and web address are meant to compete directly with Wilson's YourBrainOnPorn.com website and to mislead consumers about whether Respondent's website is connected to or sponsored by Wilson or whether Respondent's website is the true Your Brain On Porn website, when that is not the case. Either way, Respondent's use and registration of the disputed domain name is in bad faith.

Beginning at least as early as 2010, Wilson started using and promoting the YOUR BRAIN ON PORN trademark for his services. The YOUR BRAIN ON PORN mark has become well-known as a source identifier for his services. The Your Brain On Porn brand educational and informational services has aided thousands and thousands of people by serving as a trusted resource for helping with understanding the effects of pornography, learning about and addressing pornography addiction, and recovering from internet-porn related problems.

Wilson owns U.S. Application Serial No. 88391933 for his YOUR BRAIN ON PORN trademark for products and services that include:

Audiobooks and downloadable electronic books in the fields of psychology and addiction and effects of pornography on users, in Class 9;

Printed books in the fields of psychology and addiction and effects of pornography on users, in Class 16; and

Education services in the fields of psychology, sociology, pathology, sexology, neuroscience and addiction and risks of and effects on users of viewing pornography; providing educational website with educational videos, curated lists of peer-reviewed research organized by topic, publications of peer-reviewed research, critiques of questionable research, and mainstream articles, all pertaining to pornography's physiological, sociological and psychological effects on users and its potential risks or behavioral addiction generally; Providing a website featuring resources, namely, non-downloadable self-reports and blogs by people who experiment with quitting Internet porn, in Class 41.

Annex 7 is a copy of the full USPTO database record for Wilson's U.S. Application for his YOUR BRAIN ON PORN trademark. Wilson filed his application with the U.S. Patent and Trademark Office after his dispute with Respondent began. Wilson also owns U.K. Registration No. 3384454 for Your Brain On Porn for similar goods and services in Classes 16, 35, 41, 42, and 44, which was filed on March 19, 2019, and registered on June 7, 2019. See Annex 8. Wilson also owns U.S. Application Serial Nos. 88391938 and 88392793 for his marks YOURBRAINONPORN.COM and YBOP, respectively, which he uses to provide his educational and informational services. See Annex 9. YBOP is the initialism for Wilson's YOUR BRAIN ON PORN brand, and Wilson and the public (including Respondent and its affiliates) have for years used YBOP to refer to his brand and YourBrainOnPorn.com website.

Subsequent to his use via his website in 2010, Wilson has continuously and substantially exclusively used YOUR BRAIN ON PORN as his trademark for his print and electronic publications, starting at least as early as 2014. These publications have been sold nationwide and internationally and have been translated into multiple languages and feature information about neuroscience, psychology and behavioral addiction and the effects of pornography on users. Wilson has sold more than 44,235 copies of his publications in English alone. See Annex 10 for representative images of his publications.

Wilson registered the domain name YourBrainOnPorn.com on November 12, 2010, and, has continuously used it as his web address featuring his Your Brain On Porn trademark and as the gateway to his Your Brain On Porn brand informational and educational services, resources, and publications. Wilson associates with his brand and site the matching social media pages on Twitter and Facebook. On Twitter, Wilson uses @YourBrainOnPorn as his

brand's username. In Annex 3, Wilson provides images of his YourBrainOnPorn.com website and his Your Brain On Porn Facebook and Twitter pages.

Wilson has invested thousands of hours and a significant monetary amount in promoting and developing the YourBrainOnPorn.com website and YOUR BRAIN ON PORN brand since 2010. The YourBrainOnPorn.com services are available throughout the U.S. and internationally. The site receives on average more than 370,000 visitors each month and has consistently received that number of visitors long before Respondent registered the disputed domain name. Annex 11 provides representative monthly Internet traffic tallies for the YourBrainOnPorn.com website. As a result of his Your Brain On Porn services, writings, and website, Wilson has received industry recognition and praise. Wilson received the SASH Media Award for his outstanding media contributions and public education on pornography addiction by the Society for the Advancement of Sexual Health, as well as numerous invitations to speak on the subject of pornography addiction. For example, Wilson's Your Brain On Porn services resulted in his being invited to deliver a TEDx Talk in 2012, which has been viewed nearly 12 million times to date. See Annex 12 showing Wilson's TEDx Talk. Wilson also presents as part of his YOUR BRAIN ON PORN services, including presenting at the 2018 NCOSE Summit in Washington, D.C. and his being interviewed and featured in the TIME cover story entitled "Porn and the Threat to Virility" in March, 2016. See Annex 13. Wilson also spoke at the 3rd International Congress of Technology Addiction, which took place May 3-4, 2016, in Istanbul, Turkey and at the "SEX TALKS" meeting of Latin American urologists in Mexico City, Mexico, in 2017, sponsored by the Boston Medical Group. As a result of these efforts and investments, Wilson created and owns common law trademark rights in his YOUR BRAIN ON PORN trademark.

As explained below, Wilson believes that Respondent and Prause are connected, as well as other people listed on the "Experts" page of RealYourBrainOnPorn.com, and that they created and use the RealYourBrainOnPorn.com website to compete unfairly with Wilson. See Annex 14-list of experts from RealYourBrainOnPorn.com site. Wilson has no association with Respondent or the experts (including Prause) listed on the Experts page of the RealYourBrainOnPorn.com website. By featuring the Real Your Brain On Porn name as the web address and on the banner of the RealYourBrainOnPorn.com website, Respondent deliberately and unfairly suggests an affiliation or approval by Wilson and trades upon Wilson's YOUR BRAIN ON PORN mark to attract and divert customers and visitors seeking information from Wilson. Respondent's use of the "Real" adjective to predicate Wilson's trademark also attempts to usurp or replace Wilson's website as though his site is somehow

inauthentic or providing inaccurate information, which is also confusing to consumers and Internet users familiar with or looking for Wilson's YOUR BRAIN ON PORN brand and YourBrainOnPorn.com website. Google search engine results for "Real Your Brain On Porn" list Wilson's site before the Respondent's and show that even Google recognizes Wilson's site as the authentic site for the Your Brain On Porn brand. Over half of the returns on the first page of the Google search engine results for "Real Your Brain On Porn" are for Wilson's site, material, and publications. See Annex 15.

Before pursuing this Complaint, Wilson attempted to address the disputed domain name and site, sending on May 1, 2019, a cease and desist letter to Prause and to other experts on Respondent's site, who Wilson believes are connected to or affiliated with Respondent. See Annex 16. Initially thinking Prause was sole person behind the disputed domain name, Wilson sent the May 1, 2019, letter by email and mail to Prause using addresses Prause provided when she filed U.S. Application No. 88281342 for a mark featuring Wilson's (discussed below) and incorporated her Liberos LLC business with the California Secretary of State (matches contact information listed for Prause on RealYourBrainOnPorn.com). Respondent deliberately chose to conceal his identity behind a privacy shield when registering the RealYourBrainOnPorn.com domain name, preventing Wilson from using Whois details to reach Respondent and seek resolution. Respondent (a marriage and family therapist) knows Prause (a psychologist), and they share similar views (that are often opposite of those of Wilson) on effects of viewing pornography. Respondent's social media posts show his knowledge of Prause (Annex 20.5). Complainant believes that Respondent and Prause partnered in Respondent registering and their then using the disputed domain name in bad faith.

The May 1, 2019, cease and desist letter to Respondent's affiliates demanded that Respondent's affiliates cooperate and cease use of RealYourBrainOnPorn.com and remove all uses of the Your Brain On Porn and Real Your Brain On Porn trademarks from its websites, social media sites, and promotional materials. Complainant comments that Prause appears to have used inaccurate address information before the USPTO and the California SOS because copies of the May 1, 2019, letter sent by FedEx to her addresses came back undeliverable, while the emailed letter to nprause@liberoscenter.com did not. Rather than cooperate, Respondent's affiliate Prause, through her legal representative, responded on May 9, 2019, alleging that Wilson did not own trademark rights in YOUR BRAIN ON PORN, that Wilson could not rely on his trademark rights to suppress the Respondent's expressing of its views on pornography, and that Prause did not *personally* own the disputed domain name or

corresponding website. See Annex 17. Several of the other experts listed on the disputed website, however, responded to the May 1, 2019, letter stating that they specifically asked Prause (whom Complainant considers as an affiliate to or partner of Respondent) to remove them from the list of experts on the disputed site. See Annex 18. Wilson submits that the experts asking Prause to remove them from the site shows that she is connected to Respondent and the scheme to register and use the disputed domain name. In a June 11, 2019, letter to Prause, Wilson asked Prause to identify the person or entity with whom he should correspond about the disputed domain name and website because she clearly knew who that person or entity was. See Annex 19. Prause's counsel refused to disclose or confirm that Prause was affiliated with Respondent and the disputed domain name and website stating:

I will not respond to your attempt to engage in discovery regarding Dr. Prause or her connection with "Real Your Brain On Porn.com." I explained her relationship to the website in my letter of May 9. She does not own that website. There is nothing more to say on that score.

See Annex 20. This purposeful concealment of Respondent and those connected to the disputed domain name illustrates that Respondent has acted to frustrate Wilson and his brand. Respondent knew it had no right to Real Your Brain On Porn and registered the disputed domain name via a privacy screen. Respondent (at least via its affiliate Prause) then refused to tell Wilson who it was and to stop using the domain name, pettily forcing Wilson to file this Complaint to learn the identity of Respondent and spend further resources to defend his brand and stop the unfair use and registration of the disputed domain name.

Respondent Burgess has known of Wilson and his Your Brain On Porn brand and website for years. Respondent has publicly criticized Wilson via comments on Wilson's own Twitter and Facebook pages. In February, 2018, Respondent commented on third party and on Wilson's Your Brain On Porn Facebook pages:

...Where as you linked me to Gary Wilson's YBOP site. He has lied repeatedly, misrepresents himself, his 'credentials'...Gary is a fraud.

...Let's ban the fraud Gary Wilson.

In a March 22, 2018, series of Twitter posts, Burgess mocked Wilson's site stating:

YBOP or as I like to call it Your Brain On Pseudoscience. Let me give just one example of Gary's thousands of misleading, misread scientific 'findings.'

On Wilson's Twitter page on February 2, 2018, Burgess even addressed Wilson directly, stating:

Gary you recklessly reports [sic], conflates [sic] and conculcs [sic] porn is as addictive as drugs.

Annex 20.5 contains these and more representative examples of 2018 social media posts by Respondent about Wilson. Respondent's posts and comments illustrate his prior personal knowledge of Wilson, his dislike of Wilson and his brand, views, and site, and Respondent's knowledge of and connection to Prause. These posts also illustrate Respondent had a desire to discredit Wilson's brand and silence his viewpoints online before registering and using the disputed domain name.

The May 9, June 11, and June 13 letters also illustrate that Prause, who is connected to Respondent either as partner or affiliate, has known Wilson and disliked and disagreed with him and disapproved of his views and his Your Brain On Porn brand and website for years, long before Respondent registered and used the disputed domain name in March, 2019. In the May 9 letter, Prause's own counsel references a 2015 dispute between Wilson and Prause about their differing views on pornography. This 2015 reference shows that Respondent (at least via its affiliations via Prause) knew of Wilson for years before registering and using the disputed domain name. See Annex 17.

Respondent and Prause continue the unauthorized and infringing use of the YOUR BRAIN ON PORN trademark on the website at RealYourBrainOnPorn.com and its ownership and use of the RealYourBrainOnPorn.com domain name.

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))

RealYourBrainOnPorn.com incorporates Wilson's entire YOUR BRAIN ON PORN trademark (e.g. U.S. Serial No. 88391933) with the sole, dominant feature of the domain name being the mark YOUR BRAIN ON PORN. The only difference between the disputed domain name and Wilson's YOUR BRAIN ON PORN trademark is the addition of the adjective "Real". "Real" means "genuine". Attached as Annex 21 is a dictionary definition from online Merriam-Webster dictionary for the word "Real." Adding "real" does not exclude the confusing similarity between the disputed domain name and Wilson's mark. See, *OLX Inc. v. Domain Bridge Technologies, Ali Akbar Khan / PrivacyProtect.org*, WIPO Case No. D2010-2197 (February 11, 2011) (finding realolx.com as confusingly similar to OLX).

As summarized above, Wilson owns common law trademark rights in his YOUR BRAIN ON PORN trademark for his series of print, electronic, and audio publications and

for his educational and informational services and website. Wilson has continuously and substantially exclusively used YOUR BRAIN ON PORN as his trademark for his services and website since at least as early as 2010 and for his series of publications since at least as early as 2014. Wilson registered the domain name YourBrainOnPorn.com on November 12, 2010, and has continuously used it as his web address featuring his Your Brain On Porn trademark and as the gateway to his Your Brain On Porn brand informational and educational services and resources.

The RealYourBrainOnPorn.com website prominently featured a “Welcome to REAL Your Brain On Porn” banner on every page of the site, and the tab of the home page says, “Your Brain on Porn |YBOP”. Although Respondent takes a differing view on the effects that pornography has on the minds of viewers, the subject matter of the website is about the effects of viewing pornography, and both sites list and address much of the same formal research. With the banner featuring Real Your Brain On Porn, the homepage tab featuring “Your Brain on Porn |YBOP”, the similar subject matter, i.e., effects of viewing pornography, and the web address featuring “RealYourBrainOnPorn,” Respondent deliberately and unfairly uses the RealYourBrainOnPorn.com domain name and website to confuse consumers and Internet users into believing that they are on an official, genuine Your Brain On Porn site of Wilson or one that is approved by or affiliated with or connected to Wilson, when that is not true.

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))

Respondent has no right or legitimate interests with respect to the RealYourBrainOnPorn.com domain name. Wilson is the owner and senior user of the YOUR BRAIN ON PORN mark for providing information and educational services about the effects of viewing pornography on the brain. Wilson has used and featured YOUR BRAIN ON PORN as his trademark for his services for nearly nine years, beginning at least as early as 2010. Wilson registered the YourBrainOnPorn.com domain name on November 12, 2010, and began using that domain name for his website YourBrainOnPorn.com, where he features and has featured his YOUR BRAIN ON PORN brand services. Attached as Annex 22 is a printout of the appearance of the YourBrainOnPorn.com website homepage as it appeared circa 2010. Respondent only registered the RealYourBrainOnPorn.com domain name on

March 13, 2019, almost ten years after Wilson obtained and built up trademark rights in the YOUR BRAIN ON PORN mark. Respondent does not own trademark rights in “Real Your Brain On Porn.” Respondent has filed no U.S. trademark applications for “Real Your Brain On Porn.” In fact, Respondent or its affiliate Prause filed for Wilson’s trademark and not “Real Your Brain On Porn.” On January 29, 2019, Prause filed US Application Serial No. 88281342 for the mark YOURBRAINONPORN YOURBRAINONPORN.COM YOURBRAINONPORN YOURBRAINONPORN.COM YOUR BRAIN ON PORN (See Annex 23), which mark is clearly identical to and derived from Wilson’s YOUR BRAIN ON PORN trademark and YourBrainOnPorn.com website that he has been using for almost nine years. Wilson’s and Prause’s respective U.S. trademark applications are the only applications for marks that include the terms “Brain” and “Porn” in the USPTO database. See Annex 24. Further, no third parties own International Registrations through WIPO for marks that contain “Brain On Porn.” See Annex 25.

Neither the domain name registration for RealYourBrainOnPorn.com nor the pending U.S. Application Serial No. 88281342 provide Respondent with legitimate rights or interest in the RealYourBrainOnPorn.com domain name. Respondent and its affiliates registered the disputed domain name after Wilson built up his rights in YOUR BRAIN ON PORN. Respondent has no valid basis to hold or use the RealYourBrainOnPorn.com domain name. Wilson has no relationship with Respondent or its affiliates and has not licensed or otherwise authorized Respondent to use his YOUR BRAIN ON PORN mark in any manner or to use or register or seek the registration of any domain name, including the offending RealYourBrainOnPorn.com domain name.

Unlike Wilson’s longstanding use and reputation in the mark YOUR BRAIN ON PORN, Respondent (personally or as Family Life Services) is not legitimately known by the names “Real Your Brain On Porn,” “Your Brain On Porn,” or any variation thereof. Only long after Wilson had been using and promoting his YOUR BRAIN ON PORN and his YourBrainOnPorn.com web address, did Respondent launch the competing website RealYourBrainOnPorn.com touting it as a resource for accurate scientific information about pornography. Respondent unfairly uses Real Your Brain On Porn and RealYourBrainOnPorn.com to provide information about effects of viewing pornography, which services are related to those offered by Wilson under his YOUR BRAIN ON PORN trademark. After Wilson sent his May 1, 2019, letter to Prause and the other experts listed on the disputed website, Respondent added a faint disclaimer on the bottom of the pages of its site that reads, “This webpage has no relationship with yourbrainonporn.com.” See Annex 26

and compare to Annex 4. Respondent and Prause knew of Complainant before launching the RealYourBrainOnPorn.com site using the disputed domain name. Respondent's disclaimer shows that Respondent had prior knowledge of Wilson's website and trademark. *See, Koctas Yapi Marketleri Ticaret v. Yavuz Bayyigit et al.*, WIPO Case No. D2011-1278 (October 3, 2011) (finding disclaimer demonstrates Respondent had prior knowledge of trademark and was aware that a legitimate use of disputed domain name was not possible without infringing complainant's trademark rights). Further, the existence of a disclaimer does not cure Respondent's bad faith. *Id.* The Respondent, who registered and used its RealYourBrainOnPorn.com domain name long after Wilson, is trying to pass its services off as though it is the genuine YOUR BRAIN ON PORN website when it is not. Respondent's faintly visible disclaimer on its website does not remedy these actions. Respondent has no rights or legitimate interest in the domain name pursuant to the Policy and is merely trying to attract online customers by using Wilson's well-known YOUR BRAIN ON PORN trademark.

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))

Respondent has registered and is using the domain name RealYourBrainOnPorn.com in bad faith and is in direct violation of at least Paragraphs 4(b)(iii) and 4(b)(iv) of the Policy.

Respondent intentionally uses RealYourBrainOnPorn.com and prominently features the REAL YOUR BRAIN ON PORN mark without Wilson's permission on the website at that web address, where the Respondent offers information about pornography and the effects of viewing pornography. Given that Wilson renders informational and educational services about the effects of viewing pornography under his YOUR BRAIN ON PORN brand, Internet users are likely to associate Respondent's disputed RealYourBrainOnPorn.com site with Wilson and his YOUR BRAIN ON PORN informational and educational services. Wilson respectfully submits that Respondent uses and has used the disputed domain name to intentionally attract, for commercial gain, Internet users to the RealYourBrainOnPorn.com site by creating a likelihood of confusion with Wilson's mark as to source, sponsorship, affiliation or endorsement.

Only in April, 2019, long after Wilson began using and promoting his YOUR BRAIN ON PORN trademark and his YourBrainOnPorn.com web address, did Respondent launch the competing website RealYourBrainOnPorn.com, touting it as a resource for accurate

scientific information about pornography. Annex 6 is the April 18, 2019 press release distributed by Respondent as coming from Ashland, Oregon. Using the Ashland, Oregon geographic location for the press release is significant because Wilson resides in Ashland, Oregon. Respondent, located in Sunnyvale, California, has no true connection whatsoever to Ashland, Oregon (other than as trying to appear as related to Wilson and his Your Brain On Porn brand and website). The press release therefore gives the appearance of coming from the same geographic location where Wilson has his headquarters and operations for his YOUR BRAIN ON PORN brand and website.

Respondent had knowledge of Wilson's trademark YOUR BRAIN ON PORN, his YOUR BRAIN ON PORN publications, his YOUR BRAIN ON PORN services, and the YourBrainOnPorn.com domain name, website, and social media pages before the Respondent registered and started using the RealYourBrainOnPorn.com domain name. See Annex 20.5. Respondent's website has featured a banner "Welcome to the REAL Your Brain On Porn" on every page of its site. See Annex 4. As noted above, Complainant believes that Prause is affiliated with Respondent. Like Respondent, Prause has known of Wilson and his Your Brain On Porn brand and website for years, having publicly criticized Complainant and his website numerous times, long before Respondent registered the disputed domain name. For example, in November 14, 2016, social media posts, Prause even publicly acknowledged and stated, "This is Gary Wilson [Complainant] who owns <http://www.yourbrainonporn.com>...." Attached as Annex 27 are representative examples of social media posts from 2016-2018 illustrating Prause's personal knowledge of Complainant and the website YourBrainOnPorn.com.

Respondent's prior knowledge of Wilson and his trademark rights and website increases the bad faith demonstrated by Respondent's actions in registering and using as its web address RealYourBrainOnPorn.com to offer, feature and promote competing services of providing information about the effects of viewing pornography. Complainant believes that Respondent did so deliberately to disrupt the business of Wilson and to redirect Internet users to Respondent's competing website.

Respondent also likely intends to confuse Internet users into believing Wilson is affiliated with or endorses Respondent's RealYourBrainOnPorn.com website or intends to confuse Internet users into believing that it is Respondent's website that is the authentic website for the YOUR BRAIN ON PORN services, when that is not the case. Respondent

deliberately attempts to attract Internet users to Respondent's website by using Wilson's YOUR BRAIN ON PORN trademark in the domain name and on the banner featured at the top of every page. Respondent solidifies that confusion by adding "Real" to the domain name and trademark in most instances. As noted above, the adjective real suggests authenticity. Respondent knows that it is unfairly using Wilson's trademark by the very placing of "Real" in front of his mark. *See Educational Testing Service v. Jong-Cheol Seo*, WIPO Case No. Case No. D2006-0056 (April 25, 2006) (finding that the addition of the term "real" created a likelihood of confusion because that term falsely suggests that the goods and services offered by Respondent are authentic branded goods and services or are endorsed by the complainant.)

After registering the disputed domain name, Respondent also started using Real Your Brain On Porn on social media sites, including Twitter, Facebook, YouTube. Respondent's Twitter page features "Real Your Brain On Porn" and mimics the color scheme and look and feel of Wilson's YourBrainOnPorn.com website and Twitter page. See Annexes 28 and 3. Respondent's copying illustrates the deliberately deceitful lengths to which Respondent is trying to confuse consumers and to trade off Wilson's trademark and to disrupt Wilson's brand and associated goodwill and business.

On the RealYourBrainOnPorn.com site, Respondent uses code that features Wilson's Your Brain On Porn trademark. Respondent intentionally does so as a search engine optimization tactic to fool search engines into recognizing Respondent's site as Wilson's and so that Respondent's site appears higher in search results than Wilson's site. Annex 29 provides examples where Respondent has included code of "Your Brain On Porn" for its website. It is telling that none of this coding includes the adjective "Real." Just like adding "Real" to Wilson's trademark, this coding tactic illustrates that Respondent wants to confuse consumers and trick search engines to find Respondent's site instead of Wilson's.

Even though Respondent (via its affiliates) was notified (via Wilson's May 1, 2019, and June 11, 2019, letters) that it was violating Wilson's trademark rights in YOUR BRAIN ON PORN, Respondent and its affiliates have continued to act in a manner that violates Wilson's trademark rights and allege that Wilson may not rely on his trademark rights to suppress Respondent's views on pornography. At no point has Wilson, as part of this trademark and domain name dispute, tried to stop Respondent or its affiliates from expressing views on pornography. Instead, Wilson has sought cooperation of Respondent via its affiliates with

stopping use of YOUR BRAIN ON PORN as a trademark and web address and with transitioning (or reverting) to a trademark and web address (or to a previous web address) that are not identical to or confusingly similar to those of Wilson. Respondent could easily return to its original website and URL, www.scienceofarousal.com. To date, Respondent refuses to recognize the trademark infringement that it commits by using the RealYourBrainOnPorn.com web address and banner touting that site as “Real Your Brain On Porn” and actively continues to solicit Internet users to its site to receive its competing informational and educational services and resources to the detriment of Wilson.

In effect, Respondent is leveraging the recognition built by Wilson of the “YOUR BRAIN ON PORN” mark for its own benefit. As such, this is evidence of Respondent’s registration and use of the RealYourBrainOnPorn.com domain name in bad faith. See *Yahoo! Inc. v Data Art Corp.*, (WIPO Case No. D2000-0587), *Edmunds.com, Inc v WWWEDMUNDS.com and DMUNDS.com* (WIPO Case No, D2001-0937) and *Pig Improvement Company, Inc. v. Platinum Net, Inc.*, (WIPO Case No. D2000-1594).

Thus, Respondent violates the Policy because it has registered and uses for commercial profit and gain the RealYourBrainOnPorn.com domain name, fully incorporating Wilson’s YOUR BRAIN ON PORN mark, to deceive consumers into thinking that they are on Wilson’s website or one authorized by Wilson where they may receive and benefit from Wilson’s YOUR BRAIN ON PORN brand services.

Based on the foregoing, Complainant respectfully requests that the disputed domain name be transferred to Complainant.

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 Complainant requests the Administrative Panel appointed in this administrative proceeding that the disputed domain name be transferred to the Complainant.

VIII. Administrative Panel

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

- [14.] The Complainant elects 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 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(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.] No other legal proceedings are presently pending in connection with or relating to the domain name that is the subject of the 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(s) on 2019, 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.

XIII. Certification

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

[20.] The Complainant 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 affiliates 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 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.

Respectfully submitted,



Alisa C. Simmons
Fitch Even Tabin & Flannery LLP

Dated: July 13, 2019 (As Amended after original filing on July 2, 2019)

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).

[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.

Annex 1: June 29, 2019 Whois for RealYourBrainOnPorn.com

Annex 1.5: July 8, 2019 Email from WIPO Providing Registrant Details

Annex 2: Registrar Tucows Inc. Domain Name Registration Agreement

Annex 3: Wilson’s YourBrainOnPorn.com Website and Facebook and Twitter Pages

Annex 4: Capture of Respondent’s RealYourBrainOnPorn.com Website as of April 18, 2019

Annex 5: Capture of Respondent’s ScienceofArousal.com Website as of April 14, 2019

Annex 6: April 18, 2019 Press Release of Respondent

Annex 7: Wilson’s U.S. Trademark Application Serial No. 88391933 for YOUR BRAIN ON PORN

Annex 8: Wilson’s U.K. Registration No. 3384454 for Your Brain On Porn & Design

Annex 9: Wilson’s U.S. Trademark Application Serial Nos. 88392793 and 88391938 for YBOP and YourBrainOnPorn.com

Annex 10: Wilson’s Your Brain On Porn Publications

Annex 11: Internet Traffic Data for YourBrainOnPorn.com

Annex 12: Wilson’s 2012 TEDx Talk

- Annex 13: March, 2016, TIME Cover Story featuring Wilson
- Annex 14: RealYourBrainOnPorn.com page listing its “Experts”
- Annex 15: Google Search Results for “Your Brain On Porn”
- Annex 16: May 1, 2019 Letter to Prause re Unauthorized use of Your Brain On Porn
- Annex 17: May 9, 2019 Letter from Prause’s Counsel in Response to May 1 Letter
- Annex 18: Representative May, 2019 Emailed Responses from Experts on
RealYourBrainOnPorn.com Website
- Annex 19: June 11, 2019 Letter to Prause re Unauthorized use of Your Brain On Porn
- Annex 20: June 13, 2019, Letter from Prause’s Counsel in Response to June 11 Letter
- Annex 20.5: Representative 2018 Captures of Daniel Burgess Facebook and Twitter Posts
Showing Prior Knowledge of Wilson and His Website
- Annex 21: Online Dictionary Definition of “Real”
- Annex 22: Capture of YourBrainOnPorn.com Circa 2010
- Annex 23: Prause U.S. Application Serial No. 88281342 for YOURBRAINONPORN
YOURBRAINONPORN.COM YOURBRAINONPORN
YOURBRAINONPORN.COM YOUR BRAIN ON PORN
- Annex 24: USPTO Trademark Database Search Results for “Brain” with “Porn” Marks
- Annex 25: WIPO Madrid Monitor Database Search Results for “Your Brain On Porn”
- Annex 26: Capture of RealYourBrainOnPorn.com Site as of May 17, 2019
- Annex 27: Examples of 2016-2018 Social Media Posts by Prause about Wilson
- Annex 28: Comparison Showing Similarity between Respondent’s and Wilson’s Twitter
Page
- Annex 29: Examples of Respondent’s SEO Coding Tactics on RealYourBrainOnPorn.com
Website