

UNITED STATES OLYMPIC COMMITTEE

Matthew Fogarty,	)	
	)	
Complainant,	)	
	)	ORDER
vs.	)	
	)	
USA Badminton,	)	June 4, 2008
	)	
Respondent.	)	
	)	

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**I. BACKGROUND**

On April 3, 2008 Matthew Fogarty (“Fogarty”) filed a Complaint against USA Badminton (“USAB”) pursuant to Article VIII, Section 8.1 of the USOC Bylaws and Section 220527 of the Ted Stevens Olympic and Amateur Sports Act (36 USC §§ 220501-220529) (the “Act”). In Fogarty’s Complaint he contests USAB’s International Tournament Entry Procedure, which requires that an athlete who wishes to participate in an international competition notify USAB five days prior to the entry date for the international competition so that USAB can administratively process the athlete’s entry. Fogarty contends that this procedure violates Section 220522(a)(14) of the Act, which limits an NGB from having eligibility criteria that are more restrictive than its international federation.

On May 13, 2008 USAB filed a Motion to Dismiss Fogarty’s Complaint. The Motion was based on four grounds:

1. Fogarty’s Article VIII Complaint should be dismissed for failing to state a claim on which relief can be granted as it is improperly filed pursuant to Article IX.
2. Fogarty’s Complaint should be dismissed for lack of jurisdiction, as the Hearing Panel is not empowered to hear Article IX Complaints.

3. Fogarty has not exhausted his administrative remedies with USAB.
4. Fogarty's Complaint should be dismissed as moot.

II. ORDER

Fogarty shall provide a response to USAB's Motion to Dismiss by June 18, 2008. Any response submitted by Fogarty shall also be served on USAB. If Fogarty does not respond, the Hearing Panel shall rule on the Motion as submitted by USAB.

Dated this 4<sup>th</sup> day of June, 2008

  
Mary McCagg, Chair

Robert P. Latham, Panel Member  
Max Cobb, Panel Member  
Debbie Hesse, Panel Member  
Courtney Johnson, Panel Member

