

## **ADMINISTRATIVE PANEL DECISION**

### **Crystal Cathedral Ministries v. Martina Zammit Case No. D2023-0219**

#### **1. The Parties**

The Complainant is Crystal Cathedral Ministries, United States of America (“United States”), represented by Lutzker & Lutzker LLP, United States.

The Respondent is Martina Zammit, Malta.

#### **2. The Domain Name and Registrar**

The disputed domain name <crystalcathedral.org> is registered with GoDaddy.com, LLC (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 18, 2023. On January 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 18, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 19, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on January 23, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on January 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 13, 2023. The Center received informal email communications from the Respondent and the Complainant on January 26, 2023, indicating interest to settle the dispute. Accordingly, the Center sent a possible settlement email to the Parties on January 26, 2023. The Complainant did not request for a settlement of the proceedings. The Center received further informal communications from the Complainant and the Respondent on February 1, 2023, and February 3, 2023

respectively. The Respondent did not submit any formal response. Accordingly, the Center notified the Commencement of Panel Appointment Process on February 13, 2023.

The Center appointed John Swinson as the sole panelist in this matter on February 21, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### 4. Factual Background

The Complainant is the creator, distributor and producers of a television program called “Hour of Power” and of live religious worship services. For over 45 years, the Complainant has broadcast weekly Christian religious services. The Complainant’s church was founded in 1955. In 1981, the Complainant was re-named *Crystal Cathedral Ministries* after its then new church building, the Crystal Cathedral.

According to the registration certificate provided by the Complainant and confirmed by the current records of the United States Patent and Trademark Office, an entity called The Crystal Cathedral owns a trademark for CRYSTAL CATHEDRAL. This trademark is U.S. Reg. No. 1,584,602, which was filed on November 29, 1988 and registered on February 27, 1990.

The Complaint states that the Complainant has used the CRYSTAL CATHEDRAL trademark continuously since 1980.

According to the Complaint, the Complainant owned the disputed domain name from 1997 to 2022. For a reason that is not explained in the Complaint, the registration of the disputed domain name expired, and the Respondent then acquired the disputed domain name immediately after expiry.

The Respondent acquired the disputed domain name on January 26, 2022.

A person called Rui who emailed the Center from an email address ending “...@igaming-seo.com” states that the Respondent is an online SEO agency that acquires expired domains for SEO and link-building purposes. The website at <igaming-seo.com> states: “We offer top notch iGaming SEO and Casino SEO services.” It appears that the Respondent’s business is to acquire expired domain names that previously generated web traffic, and then insert links into the content of the websites at these expired domain names where the links are directed to the Respondent’s customers’ websites. This is done for a fee with the intent to improve the search engine rankings for the Respondent’s customers’ websites.

The Respondent states that the Respondent acquired the disputed domain name in a GoDaddy auction for USD 5,995.

The disputed domain name initially resolved to a website that appears to be a copy of a website that was once operated by the Complainant. After the filing of this dispute, the content of this website changed, and it now states “New Content will be available soon! Please keep track of this page as new and exciting content will be soon available!”

In correspondence after the filing of the Complaint, the Respondent offered to transfer the disputed domain name to the Complainant for USD 5,995. The Complainant rejected this offer.

The Respondent has been an unsuccessful respondent in at least two prior cases under the Policy: *Europcar International S.A.S.U. v. Martina Zammit*, WIPO Case No. [D2022-0449](#); and *Town of Secaucus, New Jersey v. Martina Zammit, Oring Ltd.*, WIPO Case No. [D2020-0509](#).

## 5. Parties' Contentions

### A. Complainant

In summary, the Complainant makes the following submissions:

The Complainant first began using the mark CRYSTAL CATHEDRAL in connection with religious ministerial services in 1980 and has continuously used that trademark since. The Complainant has established significant common law rights in the CRYSTAL CATHEDRAL trademark.

The Complainant owns the United States trademark registration referred to in Section 4 above.

The disputed domain name is identical to the Complainant's CRYSTAL CATHEDRAL trademark and incorporates the whole of that trademark.

The Respondent's use of the disputed domain name is not a *bona fide* offering of goods or services. The website at the disputed domain name purports to be that of the Complainant and has content identical to the Complainant's CRYSTAL CATHEDRAL website as it existed in 2021. (This is also evidence that the Respondent intended to disrupt the business of the Complainant and to confuse Internet users as to the source or affiliation of the Respondent's website.)

There is no evidence that the Respondent is commonly known by the disputed domain name. The Respondent has not been authorized or licensed by the Complainant to use the CRYSTAL CATHEDRAL trademark.

The Respondent has registered and used the disputed domain name in bad faith. The disputed domain name wholly incorporates and is identical to the Complainant's famous CRYSTAL CATHEDRAL trademark.

The Respondent registered the disputed domain name to falsely suggest a connection between the Complainant and the Respondent, which does not exist. The timing of the Respondent's registration of the disputed domain name (immediately after it expired) indicates that the Respondent's conduct was deliberate.

The Respondent's conduct in registering the disputed domain name immediately after it expired, after being owned by the Complainant for over 20 years, is overwhelming evidence that the Respondent is a cyber-squatter whose sole purpose is to profit from registering a domain name that wholly incorporates the Complainant's famous CRYSTAL CATHEDRAL trademark.

### B. Respondent

The Respondent did not file a formal response. Several emails were sent to the Center on behalf of the Respondent. The Panel will consider these emails as comprising an informal Response. In summary, the Respondent submits:

The Respondent is an online SEO agency that acquires expired domains for SEO and link-building purposes.

The Respondent acquired the disputed domain name at a GoDaddy auction.

"This domain is of interest to us as we sell external links from it to our customers for a profit. ... We are happy in keeping the domain in our business, as it is a profitable asset for us."

The Respondent has removed the content from the website at the disputed domain name because "... we have no interest in keeping content that is owned by others and our business is simply dealing with expired domains."

The Respondent offered to transfer the disputed domain name to the Complainant for the same price that the Respondent acquired the disputed domain name at the auction.

## 6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The *onus* of proving these elements is on the Complainant.

Paragraph 15(a) of the Rules directs the Panel to decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

### A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy provides that the Complainant must establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant asserts that the Complainant has used the CRYSTAL CATHEDRAL trademark continuously since 1980 but provides no evidence to support this statement. There is no evidence in the Complaint of current use of the CRYSTAL CATHEDRAL trademark by the Complainant. Accordingly, the Panel finds that the Complainant has not provided sufficient evidence to prove that the Complainant has common law trademark rights in the term CRYSTAL CATHEDRAL.

The Panel will now consider United States Trademark Registration No. 1,584,602 for CRYSTAL CATHEDRAL that is referred to in the Complaint. This trademark registration is owned by an entity called The Crystal Cathedral. This entity has a different name to the name of the Complainant in this Complaint. To add to the confusion, the Panelist notes that an entity named Crystal Cathedrals Ministries, Inc. was successful in a prior case concerning <thehourofpower.com> (see *Crystal Cathedrals Ministries, Inc. v. Edu Stuivenberg dba Bedroom Graphics*, WIPO Case No. [D2002-0102](#)) but an entity named The Crystal Cathedral was the complainant in a prior case concerning <crystalcathedral.com>. See WIPO Case No. [D2004-0801](#). This later case was terminated. The domain name <crystalcathedral.com> resolves to the Afternic website where it is currently listed for sale. The Complaint does not refer to either of these prior cases or to the <crystalcathedral.com> domain name. The Complainant provides receipts for registration fees for the disputed domain name prior to the disputed domain name being acquired by the Respondent. However, these receipts do not refer to the Complainant or to the entity that owns the United States Trademark Registration (*i.e.*, The Crystal Cathedral).

According to various newspaper reports, the Complainant filed for bankruptcy in February 2012, and as part of the bankruptcy proceeding, the congregation sold the Crystal Cathedral building to a Roman Catholic Diocese. It appears that the Complainant or its successor now operates under the name Shepard's Grove, not at the Crystal Cathedral, but at an address which is in the same city as the Crystal Cathedral building. See <hourofpower.org> and <sgp.church>.

The initial question for the Panel is whether the Complainant has trademark rights in CRYSTAL CATHEDRAL under the Policy in view of the fact that the CRYSTAL CATHEDRAL trademark registration is

owned by The Crystal Cathedral. If the Complainant and The Crystal Cathedral are separate legal entities, they appear to be associated in some way. The Panel reaches this conclusion because the attorney who filed the Complainant is the same attorney listed in the United States Patent and Trademark Office records as the attorney of record for the CRYSTAL CATHEDRAL trademark registration, and the address of The Crystal Cathedral in the official trademark records appears to be the same address as the address of the Complainant. Accordingly, the Panel concludes, with hesitation, that the Complainant does have trademark rights in the CRYSTAL CATHEDRAL trademark for the purposes of the Policy.

Previous UDRP panels have consistently held that domain names are identical or confusingly similar to a trademark for purposes of the Policy when the domain name includes the trademark, or a confusingly similar approximation, disregarding the generic Top-Level Domain part of the domain name (*e.g.* disregarding the .com part of the domain name.)

Here, the disputed domain name is identical to the CRYSTAL CATHEDRAL registered trademark, disregarding the generic Top-Level Domain.

The Complainant succeeds on the first element of the Policy.

## **B. Rights or Legitimate Interests**

The Complainant's allegations to support the Respondent's lack of rights or legitimate interests in the disputed domain name are set out in Section 5A above.

There is no evidence that the Respondent is commonly known by the disputed domain name. There is no evidence that the Respondent owns or operates a cathedral.

After acquired by the Respondent, the disputed domain name resolved to a website that copied the contents from a 2021 version of a website of the Complainant. The Respondent removed this copied content after the Respondent received this Complaint and replaced it with a "coming soon" message.

Accordingly, the Respondent is not using (and there is no evidence that the Respondent has demonstrable preparations to use) the disputed domain name in connection with a *bona fide* offering of goods or services. The website at the disputed domain name does not currently resolve to website with substantive content. Prior to the notice of dispute, the disputed domain name resolved to a website which sought to mimic the Complainant's actual website. This use is not *bona fide* in the circumstances. *Cision US Inc. v. Carlos L Kempinsky*, WIPO Case No. [D2020-3523](#).

The Panel finds that the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent purchased the disputed domain name for search engine optimization (SEO) purposes. After receiving a copy of the Complaint, the Respondent offered to sell the disputed domain name to the Complainant. The Respondent states: "It is never our intention to keep domains where the former owners still have an interest in them."

The Respondent's informal Response indicates several matters. First, the Panel finds that there is no suggestion of any plan to use the disputed domain name in connection with any *bona fide* offering of goods and services as to what typically has been understood under the Policy. Second, the Panel considers that the Respondent's explanation of its SEO purposes shows that the Respondent used or intended to use the disputed domain name for a website that included links inserted by the Respondent to the Respondent's customers' websites. Because of the Complainant's long prior ownership of the disputed domain name, the Panel finds this website is likely to have web traffic looking for the Complainant. Based on the foregoing, the Panel considers that the purpose of the Respondent's scheme is to unfairly use the reputation of the Complainant to raise the search engine rankings of the Respondent's customers. Thirdly, the Panel finds, as discussed below, that the Respondent's registration of the disputed domain name through "drop catching",

with the intention of benefitting from the Complainant's reputation-driven traffic, allows the Panel to infer that the Respondent was aware of the significance of the disputed domain name as denoting or referring to the Complainant; at minimum this could have been easily verified. In fact, the Respondent was prepared to pay USD 5,995 for the disputed domain name most likely due to the quality traffic that the Complainant's website was receiving prior to the disputed domain name lapsing as well as the 20 years of prior use of the disputed domain name by the Complainant. Fourthly, the informal Response does not explain how the duplicated or copyrighted content came to be incorporated in the Respondent's website, but it does admit that this content "was owned by others" – in effect an admission of an awareness of the Complainant (its reputation), and its copyright rights. Fifthly, the Panel acknowledges that the Respondent is now willing to transfer the disputed domain name to the Complainant for a fee. Compare *Town of Secaucus, New Jersey v. Martina Zammit, Oring Ltd.*, WIPO Case No. [D2020-0509](#), which involves the same respondent and has a similar fact pattern.

Offering the disputed domain name for sale back to the Complainant does not, of itself, constitute a legitimate interest under the second element of the Policy. Compare *Khadi & Village Industries Commission v. Michael F Mann, Domain Asset Holdings, LLC*, WIPO Case No. [D2021-3242](#); *So Bold Limited v. TechOps, VirtualPoint Inc.*, WIPO Case No. [D2022-1100](#); and *Supermac's (Holdings) Limited v. Domain Administrator, DomainMarket.com*, WIPO Case No. [D2018-0540](#) ("Supermac").

Having regard to all these matters, the Panel finds that the *prima facie* case established by the Complainant has not been rebutted by the Respondent and the Complainant succeeds on the second element of the Policy.

### **C. Registered and Used in Bad Faith**

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used the disputed domain name in bad faith.

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by the complainant. *Fifth Street Capital LLC v. Fluder (aka Pierre Olivier Fluder)*, WIPO Case No. [D2014-1747](#).

The circumstances in which the Respondent became the registrant of the disputed domain name bear the hallmarks of "drop catching" expired domain names. Here:

- (a) the Complainant was the registrant of the disputed domain name for over twenty years,
- (b) that registration lapsed,
- (c) very shortly afterwards, the Respondent became the registrant through an auction process conducted by the Registrar, and
- (d) most likely, the Respondent acquired the disputed domain name because of the traffic generated by the disputed domain name prior to it lapsing and the Complainant's immediately prior twenty-year registration period.

Panels have found that registration of a domain name through "drop catching", where the registration is done to take an unfair advantage of the reputation built by the previous owner, and the domain name conflicts with the rights of the prior registrant, is opportunistic behaviour that constitutes registration and use in bad faith under the Policy. See *Supermac* which stated: "Where registration occurs through drop-catching, the registrant is objectively aware that another person held the registration immediately prior. This, in effect, puts the registrant on notice that another person (the immediately prior registrant) may have rights in a trademark to which the domain name is identical or confusingly similar."

Here, the Respondent's conduct demonstrates the Respondent's knowledge of the Complainant and its trademark. By registering the disputed domain name in a drop catch auction and then by using the disputed domain name to impersonate the Complainant using content copied from an old version of the Complainant's website, together demonstrate that the Respondent specifically knew of the Complainant and developed a website to impersonate the Complainant to generate traffic for SEO purposes. *Block.one v. See PrivacyGuardian.org / Burstein-Applebee, Jerry K. Chasteen*, WIPO Case No. [D2021-1516](#).

There is no evidence before the Panel if or how the Respondent screens the domain names the Respondent acquires to ensure that the Respondent does not infringe upon another's legal rights.

Despite the Respondent's statement that it was not the Respondent's "intention to keep domains where the former owners still have an interest in them", the most likely explanation for the Respondent's acquisition of the disputed domain name was that the disputed domain name was acquired by the Respondent to take advantage of the association of the disputed domain name with the Complainant and with the CRYSTAL CATHEDRAL trademark. Compare *The American Automobile Association, Inc. v. China Capital Domain Fund Limited*, WIPO Case No. [D2019-2209](#). One could also read the Respondent's statement quoted above as an admission that the Respondent takes no steps to avoid an abusive conduct when acquiring domain names and only if a former owner raises an issue with the Respondent's conduct will the Respondent then deal with that issue by attempting to sell the domain name back to the former owner.

It also does not follow that an offer, made during ongoing proceedings, to transfer a domain name back to the prior owner of the domain name for documented out-of-pocket costs cures bad faith. *Town of Secaucus, New Jersey v. Martina Zammit, Oring Ltd.*, WIPO Case No. [D2020-0509](#).

In the circumstances of this case, the Panel concludes that the Respondent is intentionally profiting off the trademark value of the disputed domain name.

The Panel finds that the Respondent registered and used the disputed domain name in bad faith.

The Complainant succeeds on the third element of the Policy.

## **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <crystalcathedral.org>, be transferred to the Complainant.

*/John Swinson/*

**John Swinson**

Sole Panelist

Date: March 5, 2023