

ADMINISTRATIVE PANEL DECISION

International Olympic Committee (IOC), Brisbane 2032 Olympic and Paralympic Games Organising Committee, Australian Olympic Committee Inc. v. Alan Hand, Xosphere, Inc.¹
Case No. D2024-0122

1. The Parties

The Complainant is International Olympic Committee (IOC), Switzerland, Brisbane 2032 Olympic and Paralympic Games Organising Committee, Australia, and Australian Olympic Committee Inc., Australia, represented by Bird & Bird (Belgium) LLP, Belgium.

The Respondent is Alan Hand, Xosphere, Inc., United States of America (the "US").

2. The Domain Name and Registrar

The disputed domain name <brisbane2032.com> 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 12, 2024. On January 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 12, 2024, 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 16, 2024, 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 21, 2024.

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

¹ In its cover email to the Response the Respondent makes a request concerning its identity to the effect that there was apparently a clerical error in the ownership information provided to the registrar and that Alan Hand (CEO of Xosphere, Inc.), not Xosphere, Inc. is the registrant. In its unsolicited supplemental filing, the Complainant objects to the proposed naming. As nothing in this case turns on the distinction (which seems to be somewhat of a formality in any event), the Panel need not address the request, nor the rebuttal.

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 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 11, 2024. On February 9, 2024, the Respondent requested for an extension to file its Response. On February 9, 2024, the Center notified Parties that the Response due date was extended to February 15, 2024. The Response was filed with the Center on February 15, 2024. On February 21, March 1 and March 5, 2024, the Complainant filed unsolicited supplemental filings. On February 22, 23, and on March 4, 2024, the Respondent filed unsolicited supplemental filings.

The Center appointed Taras Kyslyy as the sole panelist in this matter on February 22, 2024. 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 1 is the International Olympic Committee, an international, non-governmental, non-profit organization, founded in 1894 as the umbrella organization of the Olympic Movement. Since 1896, the Complainant has supervised the organization of the Olympic Games. The Complainant has conducted 24 Olympic Winter Games and 32 Olympic Summer Games. The Complainant 1 leads the Olympic Movement, of which the International Sport Federations and the 206 National Olympic Committees are also an integral part.

The Olympic Games bring together athletes from across the globe for one of the world's most known sporting event. They are popular and widely broadcasted. According to the Complainant's broadcast reports, the global audience reach of Summer Olympic Games like London 2012, Rio 2016, or Tokyo 2020 averages around 3.3 billion people and for Winter Olympic Games such as PyeongChang 2018 and, most recently, Beijing 2022, it averages around 2 billion people.

When the Complainant 1 selects a city to stage the Olympic Games, the city and the National Olympic Committee of the host country create the Organizing Committee for the Olympic Games which will organize these Games. Subsequent to the election of Brisbane as host city of Brisbane 2032 on July 21, 2021, the Complainant 2 the Brisbane 2032 Olympic and Paralympic Games Organising Committee was established in December 2021.

The Complainant 3 the Australian Olympic Committee Inc. is the National Olympic Committee of Australia and responsible for developing, promoting, and protecting the Olympic Movement in Australia.

The Complainant 1 has been using Host City & Year identifiers since Olympic Games in Athens in 1896 to designate and differentiate each edition of the Olympic Games.

The Complainant 1 and the Complainant 3 hold rights for a number of BRISBANE 2023 trademark registrations licensed to the Complainant 2.

The Complainant 1, inter alia, owns Liechtenstein trademark BRISBANE / 2032 with registration no. 19976, registered on February 23, 2021, and International trademark BRISBANE 2032 and design with registration no. 1655479, registered on August 20, 2021, designating also the United States.

The Complainant 3 owns Australian trademark BRISBANE 2032 with registration no. 2158382, registered on February 24, 2021, and Australian trademark BRISBANE 2032 OLYMPIC GAMES with registration no. 2158385, registered on February 24, 2021.

In addition to the abovementioned trademarks, the Complainant 3 also owns a number of domain names containing the mark BRISBANE 2032 or otherwise relating to the upcoming Brisbane 2032 Games, including but not limited to <brisbane2032.com.au>, <brisbane2032.com.au>, <brisbane2032.net.au>, <brisbane2032.org.au>, and <brisbane2032.au>.

The city of Brisbane was announced for bidding to host the Olympic Games on August 5, 2008.

The Respondent is a US-located business. The disputed domain name was registered on August 24, 2008, and resolves to a third-party webpage offering the disputed domain name for sale and providing a contact form to request for the sale price. Previously the disputed domain name was offered for sale for USD 50,000.

5. Parties' Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that the disputed domain name is identical or confusingly similar to the Complainants' trademarks. The disputed domain name incorporates the entirety of the registered BRISBANE 2032 trademarks and the dominant feature of the BRISBANE 2032 OLYMPIC GAMES trademark and is therefore identical or confusingly similar to these trademarks. The fact that some of the BRISBANE 2032 trademarks are combined trademarks is irrelevant since the assessment of identity or confusing similarity involves comparing the (alpha-numeric) domain name and the textual components of a combined trademark. The extension ".com" is not to be taken into consideration when examining the identity or similarity between the Complainants' trademarks and the disputed domain name as it is viewed as a standard registration requirement.

The Complainants also contend that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is neither affiliated with any of the Complainants in any way nor have any of the Complainants licensed, authorized or permitted the Respondent to use and register, or to seek registration of any domain name or trademark incorporating their BRISBANE 2032 and BRISBANE 2032 OLYMPIC GAMES trademarks. Since its registration 15 years ago until the date of this Complaint, the disputed domain name has not been used and has never resolved to an active website, rather it redirects to a parking page of the Registrar, stating that the domain name is for sale. The asking price for the disputed domain name is USD 50,000, which is significantly more than the Respondent's out-of-pocket expenses relating to the registration of the disputed domain name. Given the timing of registration it is likely that the Respondent had the Complainants and Brisbane 2032 Olympic Games in mind when it registered the disputed domain name. Since the disputed domain name is offered for price of USD 50,000, the Respondent must have registered the disputed domain name in order to sell it for a significant profit. The Respondent is not commonly known by the disputed domain or the name "Brisbane 2032". The Respondent's company website shows that the Respondent sells cloud orchestration solutions to companies in the US and its business therefore has no connection whatsoever with Brisbane, Australia, or the year 2032. The mere presence in the WHOIS database of the disputed domain name is not sufficient in this regard as otherwise every registrant of a domain name could establish a legitimate interest. The Respondent is not making legitimate noncommercial or fair use of the disputed domain name, instead it is falsely suggesting affiliation with the Complainants. The disputed domain name incorporates the entirety of the BRISBANE 2032 trademarks and the dominant feature of the BRISBANE 2032 OLYMPIC GAMES trademark and is therefore identical or confusingly similar to these trademarks, while Host City & Year domain names are typically used for the official Olympic Games website that is held in that city and year. The Complainants' efforts to recover the costs of Organising Olympic Games are hampered by the Respondent's ownership of the disputed domain name.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. On August 5, 2008, three days before the start of the Beijing 2008 Olympic Games, the Complainant's 3 then Vice-President Peter Montgomery told a news conference in Beijing that they had selected Brisbane for any future bid to stage the Summer Olympics. He also mentioned that the earliest possibility for a bid would be 2020 because London had been awarded the 2012 Games and the shortlist for 2016 had already been made. Mr. Montgomery's comments were widely reported globally, amongst which by Reuters. On August, 24, 2008, less than three weeks after the announcement to select Brisbane for any future Summer Olympics bid, the Respondent registered the disputed domain name. The timing cannot have been coincidental. The Respondent must have read or heard about the announcement and registered the disputed domain name, and possibly other Brisbane + year domain names, in anticipation of Brisbane winning a future bid and its election to host the Summer Olympics in 2032. It is, and was at the time, common knowledge that Summer Olympics take place every four years, Olympic Games are identified by Host City & Year and that Host City & Year domain names are typically used for the official Olympic Games website that is held in that city and year. Each of the recent Summer Olympic Games at that point had their official website at a Host City & Year domain name: <athens2004.com> and <beijing2008.com>. Thus the Respondent must have known that the disputed domain name would be needed for the official website of the Brisbane 2032 Olympic Games. Thus, the Respondent registered the disputed domain with the intention to unfairly capitalize on the Complainants' nascent trademark rights in BRISBANE 2032, as demonstrated also by the fact that the disputed domain name has been offered for sale for an exorbitant price of USD 50,000 ever since its registration. The Respondent does not have any rights or legitimate interests in the disputed domain name, which also confirms bad faith registration. The disputed domain name is not currently in active use by the Respondent, it redirects to a parking page of the Registrar, stating that the disputed domain name is for sale. Passive holding of a domain name does not preclude a finding of bad faith and that a panel must examine all the circumstances of the case to determine whether the respondent is acting in bad faith. The disputed domain name has been offered for sale ever since its registration and its current asking price is USD 50,000, which is significantly more than the Respondent's out-of-pocket expenses relating to the registration of the disputed domain name, which alone already establishes bad faith. The disputed domain name is maintained for future bad faith use. Any attempt to actively use the disputed domain name would inevitably lead to a likelihood of confusion to the source, sponsorship, affiliation, or endorsement of the website among its users who would certainly be led to believe that such a website would be owned by, controlled by, established by or in some way associated with the Complainants. Furthermore, it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be an infringement of the Complainants' trademark rights. Given that the nature of the disputed domain name carries the above-described risk of implied affiliation with the Complainants, the Respondent's retention of control of the disputed domain name represents an implied and ongoing threat to the Complainants, which further supports a finding of bad faith. Finally, bad faith use of the disputed domain name is also demonstrated by the fact that the Respondent has used a privacy service to conceal its identity.

B. Respondent

The Respondent contends that the Complainant has not satisfied all three of the elements required under the Policy for a transfer of the disputed domain name.

As a general comment the Respondent contends that the Complainants' assertions are based on pure conjecture and are demonstrably false. Notably, the Complainants refer to a Reuters article, which indeed makes no mention of the year 2032 in connection with Brisbane and the Olympic Games. This omission is critical as it underscores the baseless nature of the Complainants' argument that the Respondent could have anticipated the need for the disputed domain name for the Brisbane 2032 Olympic Games. Furthermore, the Complainants inaccurately accuse the Respondent of owning other domain names that combine "Brisbane" with future years potentially associated with the Olympic Games. This accusation is factually incorrect. The Respondent does not own, nor has ever owned, any other domains containing the word "Brisbane."

The disputed domain name was not identical or confusingly similar to any trademark or service mark in which the Complainant had rights at the time of the disputed domain name registration. The Respondent acknowledges that the disputed domain name comprises the geographical term "Brisbane" combined with

the year “2032”. However, the domain was registered in 2008, significantly prior to any use of the term “Brisbane 2032” in relation to the Olympic Games or any relevant trademark registrations by the Complainant.

The Respondent has rights and legitimate interests in the disputed domain name. The disputed domain name was registered on August 24, 2008, as part of a genuine business venture focused on creating local city guides for digital advertising. This registration predates any trademark claims related to “Brisbane 2032” by over twelve years, establishing the Respondent’s prior rights and legitimate interest in the disputed domain name. The domain scheme, combining a city name with the year 2032, was chosen to ensure availability of a broad range of cities and for marketing purposes, reflecting a practice common in the domain industry. The selection of the year 2032 was arbitrary and intended to evoke a futuristic concept for marketing purposes, similar to the widespread use of years like 2000 or 2001 in domain names.

The disputed domain name has been used actively but was not indexed by the Internet Archive’s Wayback Machine due to specific instructions in the domain’s robots.txt file. The robots.txt protocol was utilized to instruct web robots (typically search engine robots) not to index the content of the site. This is a common practice for websites that wish to prevent their content from being crawled by search engines such as Google. The nature of the disputed domain being used as a directory listing site could be misconstrued by search engines as duplicative content and in order to avoid any search engine optimization penalty for displaying duplicative content the Respondent intentionally prevented it from being crawled by use of the robots.txt file. The absence of archived pages from 2008 to 2018 in the Wayback Machine is not indicative of non-use but rather of the Respondent’s deliberate action to restrict indexing. Had the disputed domain been parked during this period, it is likely that the Wayback Machine would reflect such a parked landing page, as parked domains are typically set up to be indexed and to attract traffic. The absence of a Wayback Machine archive substantiates the claim that the disputed domain was actively used for a purpose that required privacy or restricted access, thus invalidating the Complainants’ assertion of non-use. In practice, a parked domain would generally have a generic landing page provided by domain parking services, which is designed to be crawled and indexed by search engines, thereby leaving a digital footprint in archives such as the Wayback Machine. The disputed domain name was not dormant but was being utilized in a manner consistent with the Respondent’s stated business intentions and practices, which did not include leaving the domain parked and open to indexing by search engines or archiving services.

The Respondent denies that the disputed domain name has been registered and is being used in bad faith. The disputed domain name was registered on August 24, 2008, which is over a decade prior to the Complainants’ trademark filing. At the time of the disputed domain name registration, there were no apparent rights held by the Complainants that could be adversely affected by the registration of the disputed domain name. There is no evidence to suggest that the Respondent ever engaged in any negotiations or offers to sell or rent the disputed domain name to the Complainants or any third parties related to the Complainants’ interests. The domain name was listed for sale only after the business venture had concluded, which indicates an absence of registration with the intent to profit from the Complainants’ trademark. The Internet Archive’s Wayback Machine archives show on May 5, 2019, the disputed domain name was not for sale and it was not listed for sale until December 26, 2021. The Complainants’ awareness of the asking price for the disputed domain name suggests they expressed a purchase interest, which could only be obtained after submitting a form indicating an intention to purchase. A high asking price alone does not constitute bad faith under the UDRP, particularly when the domain predates the trademark. The use of the disputed domain name in connection with a bona fide offering of services, specifically as a digital advertising platform for local businesses, further demonstrates good faith. The disputed domain was not utilized in any way that would indicate an intent to create confusion with the Complainants’ mark. The Respondent has not engaged in any behavior that could be construed as an attempt to disrupt the business of the Complainant. The use of the disputed domain name as a digital advertising platform does not interfere with the Complainant’s operations or brand. The Respondent has not used the disputed domain name to intentionally attract users for commercial gain by creating confusion. No content on the disputed domain name associated website has ever misrepresented its relationship with the Complainants or misled visitors into believing there was an official connection with the Complainants’ trademark. The official websites for recent Olympic Games have not used the “.com” generic Top-Level Domain (“gTLD”), instead, they have

utilized the “.org” gTLD, thus there was no likelihood of confusion with the disputed domain name. The Respondent has a legitimate interest in the disputed domain name. The decision to set the domain’s robots.txt file to prevent indexing by search engines was a legitimate strategy to avoid the scraping of the site, indicating active use contrary to the Complainant’s claims of non-use.

The Respondent requests that the Complainant is found guilty of Reverse Domain Name Hijacking. The disputed domain name was registered well before the Complainants’ trademark. The Complainants’ delay of over two years after the registration of their trademark before raising this complaint suggests a tactical, rather than protective, legal action. This delay correlates with the Complainants’ history of filing similar claims, including unsuccessful, which could be perceived as a strategy to intimidate domain owners or to overreach their intellectual property rights. The domain was registered without knowledge of any potential trademark claim by the Complainant, and there has been legitimate business use of the domain, further disproving any allegations of bad faith.

6. Discussion and Findings

A. Consolidation of the Complainants

Section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), summarizes the consensus view of UDRP panels on the consolidation of multiple complainants, in part, as follows:

“In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation.”

The Complainants request a consolidation of their complaints since they have a common grievance against the Respondent. The Complainants are all closely related and work together in organizing the Brisbane 2032 Summer Olympic Games. All of the Complainants have rights in the mark BRISBANE 2032 which are infringed by the Respondent’s registration and use of the disputed domain name. Since there is a common grievance on the part of each of them and a single disputed domain name, it would also be procedurally efficient to deal with all matters in one proceeding, given the almost identical facts.

The Panel accepts these arguments in favor of consolidation and grants the request to consolidate.

B. Supplemental Filings

Following the filing of the Response on February 15, 2024, the Complainant and the Respondent submitted a series of unsolicited supplemental filings. The Panel has disallowed these filings in accordance with settled precedent. The purpose of the UDRP is to provide for a quick and inexpensive way to resolve domain name disputes. Each party has one opportunity to put forward its entire case.

It is only in exceptional circumstances that a UDRP panel will allow additional evidence to be filed. In all such cases, panels have repeatedly affirmed that the party submitting or requesting to submit an unsolicited supplemental filing should clearly show its relevance to the case and why it was unable to provide the information contained therein in its complaint or response (e.g., owing to some “exceptional” circumstance). [WIPO Overview 3.0](#), section 4.6.

The Panel finds that the unsolicited supplemental filings do not meet the above requirements and thus are rejected. The Panel notes, however, that even if the Panel would have taken into consideration the unsolicited supplemental filings, the outcome of the decision would remain unchanged.

C. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark BRISBANE 2032 is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The same finding applies to the mark BRISBANE 2032 and design, since the assessment of identity or confusing similarity involves comparing the (alpha-numeric) domain name and the textual components of the relevant mark. [WIPO Overview 3.0](#), section 1.10.

The Panel also finds the marks BRISBANE 2032 and BRISBANE 2032 OLYMPIC GAMES are recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The applicable gTLD in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such may be disregarded under the first element confusing similarity test. Thus, the Panel disregards gTLD ".com" for the purposes of the confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

The fact that the disputed domain name was registered before the Complainants have acquired trademark rights does not by itself preclude the Complainants' standing to file a UDRP case, nor a panel's finding of identity or confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.1.3.

The Panel finds the first element of the Policy has not been established.

D. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

The Complainants maintain that (1) the Respondent is neither affiliated with any of the Complainants in any way nor have any of the Complainants licensed, authorized or permitted the Respondent to use and register, or to seek registration of any domain name or trademark incorporating their trademark, (2) the Respondent is not commonly known by the disputed domain or the name "Brisbane 2032". These assertions stand uncontested.

The Complainants also maintain that since its registration 15 years ago until the date of this Complaint, the disputed domain name has not been used and has never resolved to an active website, rather it redirects to a parking page of the Registrar, stating that the domain name is for sale with the asking USD 50,000, which is significantly more than the Respondent's out-of-pocket expenses relating to the registration of the disputed domain name. The Respondent's company website shows that the Respondent sells cloud orchestration solutions to companies in the US and its business therefore has no connection whatsoever with Brisbane, Australia, or the year 2032. The Respondent is not making legitimate noncommercial or fair use of the disputed domain name, instead it is falsely suggesting affiliation with the Complainants.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the

respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent counters that the disputed domain name was registered as part of its business venture focused on creating local city guides for digital advertising. The Respondent asserts that the disputed domain name has been used actively but was not indexed by the Internet Archive's Wayback Machine due to specific instructions in the domain's robots.txt file.

The Panel notes that in order to rebut the Complainants' assertion on the lack of the use of the disputed domain name in connection with bona fide offering of goods or services, the Respondent shall provide credible evidence of the use. The Panel finds the Respondent failed to do so, providing no support of as it asserts prolonged active use of the disputed domain name as a local city guide for digital advertising. The Panel is not satisfied with the mere reference to the instructions in the domain's robots.txt file as an excuse of no digital footprint of the Respondent's asserted years of active use of the disputed domain name. The Panel is convinced that if such use indeed took place, the Respondent would have been able to provide evidence illustrating its business efforts. However, the Respondent failed to do so. Taking this into account the Panel finds that the Respondent did not succeed in proving the use of the disputed domain name in connection with bona fide offering of goods or services to rebut the Complainants' arguments in this regard and confirm its rights or legitimate interests in the disputed domain name. [WIPO Overview 3.0](#), section 2.2.

Having weighted the above arguments, the Panel finds the second element of the Policy has been established.

E. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Complainant maintains that the Respondent registered the disputed domain name in anticipation of trademark rights further to significant media attention to the selection of Brisbane for a future bid to stage the Summer Olympics with the earliest possibility for a bid to be 2020. The Respondent must have read or heard about the announcement of August 5, 2008, and shortly after on August 24, 2008 registered the disputed domain name Brisbane + year following established practice of the Complainants to obtain trademark rights for a city + year for the relevant city staging the Olympic Games. The Respondent registered the disputed domain with the intention to unfairly capitalize on the Complainants' rights in BRISBANE 2032, as demonstrated also by the fact that the disputed domain name has been offered for sale for USD 50,000 exceeding out-of-pocket expenses for its registration. Passive holding of the disputed domain name does not preclude a finding of bad faith use.

The Respondent counters that the domain scheme, combining a city name with the year 2032, was chosen to ensure availability of a broad range of cities and for marketing purposes. The selection of the year 2032 was according to the Respondent a random choice and intended to evoke a futuristic concept for marketing purposes. The Complainant's reference to the Reuters article on the Brisbane bid announcement did not refer to the year of the anticipated Olympic Games hosting, so according to the Respondent it was not able to guess it to put in the disputed domain name. The disputed domain name was registered over a decade prior to the Complainants' trademark, which according to the Respondent excludes bad faith registration. Further high asking price for the disputed domain name according to the Respondent does not constitute bad faith. The disputed domain name was according to the Respondent used in connection with a bona fide

offering of services, specifically as a digital advertising platform for local businesses, further demonstrates good faith.

Where a respondent registers a domain name before the complainant's trademark rights accrue, panels will not normally find bad faith on the part of the respondent. In certain limited circumstances where the facts of the case establish that the respondent's intent in registering the domain name was to unfairly capitalize on the complainant's nascent (typically as yet unregistered) trademark rights, panels have been prepared to find that the respondent has acted in bad faith. Such scenarios include registration of a domain name further to significant media attention (e.g., in connection with a product launch or prominent event).

[WIPO Overview 3.0](#), section 3.8.

In order to succeed under this scenario, the Complainant shall demonstrate the significant media attention to a future prominent event and related anticipated trademark registration. To rebut this the Respondent shall credibly explain why the disputed domain name registered shortly after the announcement and explain its genuine choice for the disputed domain name in that particular moment of time.

The Panel finds that the Complainant succeeded to demonstrate that shortly before the disputed domain name registration there was a significant media attention to possible upcoming hosting of the Olympic Games by Brisbane earliest possible in 2020 and every next 4 years onwards. The Complainant also proved that there is an established practice to register the hosting city + year of the Olympic Games as a trademark once the hosting city bid is approved.

The Respondent's explanation on the choice of Brisbane city for the disputed domain name does not sound convincing for the Panel, since provides no reasoning for choosing specifically this Australian city by the Respondent. If the intention was to create a series of city guides as may be assumed based on the Respondent's version, then a series of other Respondent's domain names incorporating various city names should have existed, however was never demonstrated by the Respondent. And even if this was the case, it would be hard to overcome the presumption of bad faith targeting of the Complainant by virtue of the registration and offer for sale of a city + year domain name which corresponds exactly to the Complainant's very well-known naming convention. The Respondent also failed to explain the timing of the disputed domain name registration to rebut the Complainant's assertion it was right after the Brisbane bid announcement. Also established 4-years cycle of the Olympic Games allows calculating possible options of the hosting, in this case every 4 years starting from 2020.

Having weighted the above arguments the Panel finds that on the balance of probabilities further to the significant media attention to the bidding announcement for Brisbane to host Olympic Games meaning upcoming trademark registration in the format of Brisbane + year, the Respondent registered the disputed domain name before the Complainants' trademark rights accrue with the intent to unfairly capitalize on the Complainant's nascent trademark rights, which confirms the registration was in bad faith.

According to section 3.1 of the [WIPO Overview 3.0](#) bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. To facilitate assessment of whether this has occurred, and bearing in mind that the burden of proof rests with the complainant, paragraph 4(b) of the Policy provides that any one of the following non-exclusive scenarios constitutes evidence of a respondent's bad faith:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

In the present case the Complainant proved the Respondent was asking USD 50,000 for the disputed domain name, which was confirmed by the Respondent with a reservation that the high asking price shall not confirm bad faith. Under such circumstances and taking into account the Respondent's failure to credibly demonstrate a legitimate purpose of the disputed domain name registration, the Panel finds that the disputed domain name was registered primarily for sale at the price in excess of the Respondent's documented out-of-pocket costs directly related to the disputed domain name, which is an indication that the Respondent passively holds the disputed domain name aiming at a potential commercial gain, which is bad faith.

The Panel finds that the Complainant has established the third element of the Policy.

F. Reverse Domain Name Hijacking

Paragraph 15(e) of the Policy provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute reverse domain name hijacking. [WIPO Overview 3.0](#), section 4.16.

There is nothing before the Panel to suggest that this Complaint was launched for any other purpose than the very proper one of protecting the Complainants' trademark rights.

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 <brisbane2032.com> be transferred to the Complainant.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: March 7, 2024