

## **ADMINISTRATIVE PANEL DECISION**

Foris Limited v. Edmunds Gaidis, Domdevelo OU  
Case No. D2024-4704

### **1. The Parties**

Complainant is Foris Limited, Hong Kong, China, represented by DeLab Consulting Limited, Hong Kong, China.

Respondent is Edmunds Gaidis, Domdevelo OU, Estonia, represented by John Berryhill, United States of America (“United States” or “US”).

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

The disputed domain name <cripto.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 November 14, 2024. On November 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 15, 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 Complainant on November 18, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on November 23, 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 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 Respondent of the Complaint, and the proceedings commenced on November 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 20, 2024. The Response was filed with the Center on December 20, 2024. On December 31, 2024, the Center received a supplemental filing from Complainant which was described as a “Second Amended Complaint”.

The Center appointed Stephanie G. Hartung, Chiang Ling Li, and Nick J. Gardner as panelists in this matter on January 13, 2025. The Panel finds that it was properly constituted. Each member of 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.

On January 16, 2025, Respondent sent an email to the Center requesting to file a reply to Complainant's Second Amended Complaint.

#### 4. Factual Background

Complainant is a company organized under the laws of Hong Kong, China, that is active in the cryptocurrency business, offering a variety of cryptocurrency-related services, including cryptocurrency exchange.

Complainant has demonstrated to the Panel's satisfaction that it – as part of the larger group of companies known as CRYPTO.COM – enjoys rights in a number of registered trademarks relating to the CRYPTO.COM brand, inter alia, but not limited to, the following:

- figurative trademark CRYPTO.COM, European Union Intellectual Property Office (EUIPO), registration number: 17926963, registration date: January 15, 2019, status: active (deletion proceeding pending);
- figurative trademark CRYPTO.COM, Intellectual Property Office United Kingdom (IPO), registration number: UK00917926963, registration date: January 15, 2019, status: active.

Moreover, Complainant has used since 2018 the domain name <crypto.com>, which resolves to Complainant's official website at "www.crypto.com", in turn used to promote Complainant's services in the cryptocurrency business internationally.

Respondent is a company organized under the laws of Estonia that is active in the web portal and domain trading industry. The disputed domain name was first registered on September 23, 2002, and acquired by Respondent on November 24, 2021, for a purchase price of USD 74,000. At the time of rendering this decision, the disputed domain name resolves to a typical parking website operated by the Registrar, notifying Internet users that it is no longer available. Complainant, however, has demonstrated that, at the time of the filing of the Complaint, the disputed domain name resolved to a website again operated by the Registrar where it was offered for online sale at a "Buy now" price of no less than USD 2,850,000, and at a "Lease to own" price of no less than USD 237,500. Moreover, Complainant has also provided evidence that, at some earlier point of time, the disputed domain name resolved to a typical Pay-Per-Click (PPC) website displaying hyperlinks to paying third-party providers offering, inter alia, "easy payroll services", "cyber security in" and/or "computer cybersecurity".

On December 20, 2024, Respondent filed a civil action against Complainant with the US District Court, District of Arizona, for Declaratory Judgment under the Lanham Act, 15 U.S.C. §§ 1114(a) and 1125(a), and reverse domain name hijacking in violation of the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1114(2)(D)(v), concerning the disputed domain name.

Complainant requests that the disputed domain name be transferred to Complainant.

Respondent requests that the Complaint not only be denied on the substance of this matter, but that this proceeding should be terminated for procedural reasons under paragraph 18(a) of the Rules.

Complainant, in turn, requests the Panel to continue this proceeding and not to terminate it, nor suspend it.

## 5. Parties' Contentions

### A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name. Notably, Complainant contends that it is one of the world's most prominent companies providing cryptocurrency exchange and related services, and that it has considerable business operations which have grown exponentially over the years increasing from 10 million users in early 2021 to 100 million users in 2024.

Complainant submits that the disputed domain name is nearly identical to Complainant's CRYPTO.COM trademark, as only the letter "y" was replaced by the letter "i", which according to Complainant's assessment is intended as a typo-squatted version of Complainant's well-known trademark. Moreover, Complainant asserts that Respondent has no rights or legitimate interests in respect of the disputed domain name since (1) Complainant has not licensed, authorized or otherwise permitted Respondent to use its CRYPTO.COM trademark or to register any domain name incorporating such trademark, (2) there is no indication that Respondent has been commonly known by or trading under the name "cripto", "cripto.com" or any variant thereof, (3) Respondent is not currently making a legitimate noncommercial or fair use of the disputed domain name, nor is it using, or are there demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods and services, as Respondent is simply trying to lure unsuspecting Internet users who misspell Complainant's CRYPTO.COM trademark to Respondent's website on the Registrar's domain name auction website where the disputed domain name is offered for sale for a great profit, (4) Respondent owns no registered trademarks relating to the disputed domain name and the applications that it has filed in that respect were merely filed to circumvent and frustrate the application of the Policy, (5) the sole shareholder in Respondent has clearly engaged in a pattern of bad faith conduct and seems to make a profession out of domain name squatting as this person has registered over 300 domain names including typo-squatted versions of famous third-party brands (such as YouTube, Google, and Facebook) and has also been involved in numerous prior cases under the Policy where the respective panels have found that Respondent has acted in bad faith, (6) neither the disputed domain name nor Respondent's applied-for CRYPTO.COM trademarks are descriptive, as the term "cripto" has no meaning by itself in English and is only the misspelled version of "crypto" or the translation for "crypto" in foreign languages such as Spanish and Romanian, (7) Respondent has not genuinely used, or at least demonstrably intended for such use, the disputed domain name in connection with the relied upon dictionary meaning, but only to trade off third-party trademark rights, as the disputed domain name is offered for sale at a non-negotiable sales price of no less than USD 2,850,000, which value is solely, or at the very least significantly, derived from the disputed domain name's confusing similarity to Complainant's well-known CRYPTO trademarks. Finally, Complainant argues that Respondent has registered and is using the disputed domain name in bad faith since (1) the relevant date for assessing Respondent's bad faith is on or after November 25, 2019 (which is the earliest possible date on which Respondent acquired the disputed domain name) and provides a clear and fair context for evaluating Respondent's intentions and actions concerning Complainant's CRYPTO.COM trademark rights, (2) given the very intensive use, fame and distinctiveness of Complainant's CRYPTO.COM trademark, and given Complainant's very publicized and strongly advertised rebranding of its services platform to CRYPTO.COM, it is inconceivable that Respondent was reasonably unaware of Complainant's trademark rights at the time of its acquisition of the disputed domain name, e.g., at the earliest on November 25, 2019, (3) the disputed domain name is offered for sale at a "Buy now" price of no less than USD 2,850,000 and a "lease to own" price of no less than USD 237,500, which vastly exceeds any out-of-pocket costs related to the acquisition of the disputed domain name, demonstrating that it was primarily acquired by Respondent for the purpose of selling it to Complainant or to a Complainant's competitor, (4) Respondent's aim in registering the disputed domain name was clearly to profit from or to exploit the goodwill and reputation of Complainant's CRYPTO.COM trademark, as no other party than Complainant or a Complainant's competitor would reasonably offer such excessive amounts of money for the disputed domain name, and (5) Respondent obviously has engaged in a pattern of bad faith conduct through its sole shareholder and controller who registered over 300 domain names including obviously typo-squatted versions of world famous third-party brands such as YouTube, Facebook, and Red Bull, and also has been involved in at least nine prior cases under the Policy where the respective panels

have found that Respondent had acted in bad faith, thus acting as a professional cyber-squatter.

## **B. Respondent**

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

Notably, Respondent points to various formal and procedural issues, e.g., that (1) the Complaint exceeds the word limit of 5,000 words stated in paragraph 11 of the WIPO Supplemental Rules by 2,419 words, and (2) Respondent has opted for litigation in the Mutual Jurisdiction addressing Respondent's registration and use of the disputed domain name and this Panel should exercise its discretion under paragraph 18(a) of the Rules and, therefore, should terminate this proceeding.

On the substance of the matter, Respondent argues that the CRYPTO.COM trademarks cited by Complainant to demonstrate trademark rights under the Policy are not issued to Complainant, but owned by a non-party to this proceeding, further that in relation to any United States trademarks cited by Complainant, registration has been refused by the United States Patent and Trademark Office (USPTO) on the grounds of the trademarks' merely descriptive nature. Moreover, Respondent submits that it has rights and legitimate interests in respect of the disputed domain name since (1) the term "cripto" is a generic word in the Italian language and is the generic reference to cryptocurrency in both Spanish and Portuguese in the same sense as "crypto" is used in common English parlance, (2) Respondent is chartered for business relating to web portals and has acquired, for future development or sale, various domain names which have obvious commercial utility due to the generic, dictionary-word terms embodied within them, and (3) Respondent purchased the disputed domain name from the GoDaddy marketplace at a total cost of USD 74,000. Finally, Respondent asserts that it has neither registered nor is using the disputed domain name in bad faith since (1) Respondent has likewise applied for registration of trademarks corresponding to the disputed domain name in various relevant jurisdictions, including in the United States and in Brazil, for which reason Complainant's affiliated company Foris Technology Pte Ltd. (which is the registered owner of most CRYPTO.COM trademarks cited by Complainant) and Respondent have been parties to a trademark opposition proceeding in Brazil, (2) there is no question that the word "crypto" and its linguistic equivalent "cripto" have a definite generic meaning and current economic significance which far outstrip any particular secondary meaning which Complainant may claim, who, however, has not shown senior possession of any such secondary meaning in this proceeding, and (3) Respondent has received an outstandingly large volume of inquiries to purchase the disputed domain name, none of which appear to be from Complainant, and Respondent has never made an offer of any kind to sell the disputed domain name to the latter.

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, Complainant carries the burden of proving:

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

Further, paragraph 18(a) of the Rules provides as follows: "In the event of any legal proceedings initiated prior to or during an administrative proceeding in respect of a domain-name dispute that is the subject of the complaint, the Panel shall have the discretion to decide whether to suspend or terminate the administrative proceeding, or to proceed to a decision".

Clearly the proceedings initiated by Respondent in the US District Court, District of Arizona, amount to proceedings as envisaged by paragraph 18(a) of the Rules and the Panel has the discretion to decide whether to suspend or terminate the present UDRP proceeding. In assessing how to proceed, the Panel has considered whether Respondent is correct to say that Complainant has consented to the jurisdiction of the

US District Court, District of Arizona. The relevant consent to jurisdiction as set out in the Complaint is as follows: “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 principal office of the concerned registrar”. It seems to the Panel that the consent in question is only applicable if and when the Panel has made a decision to cancel or transfer the disputed domain name, which of course has not occurred. Respondent in fact acknowledges this difficulty with the interaction between paragraphs 18(a) and 3(b)(xii) of the Rules which it describes as a “Schrödinger’s Jurisdiction” problem. It says that if the Panel exercises its discretion to terminate the proceeding now, that preserves for Complainant the ability to argue in due course that it has not consented to the jurisdiction of the US District Court, District of Arizona. The Panel acknowledges such argumentation as correct and further considers that this is then a matter for the Arizona court to determine. The Arizona court proceeding is clearly a “[...] legal proceeding initiated [...] during an administrative proceeding in respect of a domain-name dispute that is the subject of the complaint” and hence the Panel accepts that paragraph 18 of the Rules here applies and that the Panel has a discretion to suspend or terminate the present case.

The Panel, in deciding whether to exercise this discretion, is well aware of the fact that UDRP panels generally issue a UDRP decision on the merits even in an overlapping court-UDRP proceedings scenario where, notwithstanding the fact that a UDRP decision would not be binding on the court, the relative expediency of the UDRP versus courts is seen as a benefit to the parties (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.14.2). Such panel reluctance to terminate a UDRP case on this basis, however, often also takes account of, and respects, the potential for court action to address causes of action separate from that being addressed in the UDRP proceeding (see [WIPO Overview 3.0](#), again section 4.14.2). In the case at hand, the Panel recognizes that the civil action filed by Respondent against Complainant with the US District Court, District of Arizona, directly and exclusively aims at the disputed domain name and (1) reaching the remedy of a Declaratory Judgment under the Lanham Act, 15 U.S.C. §§ 1114(a) and 1125(a) avoiding the transfer of the disputed domain name from Respondent to Complainant, as well as (2) the finding for reverse domain name hijacking committed by Complainant in alleged violation of the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1114(2)(D)(v). Therefore, the US court proceedings taking place at the very same time have exactly the same subject matter as the UDRP proceedings at hand, but may exercise a large number of additional judicial measures (such as damages, discovery of documents, hearing witnesses or other evidence, and especially the presentation of reply arguments) that are not provided for in proceedings under the UDRP which was explicitly designed to address a narrow form of disputes, namely typical cases of cybersquatting. This here, however, does not appear to the Panel to be such a case. Taken the Parties’ comprehensive opposing contentions (including those contained in the Second Amended Complaint filed only on December 31, 2024, which this Panel has taken into account only for the very purpose of coming to a sound decision under paragraph 18(a) of the Rules), the Panel has been presented a complex dispute between the Parties both on a procedural and on a substantive level, which e.g., includes a number of sophisticated trademark matters (some of which have already been taken to court by the Parties elsewhere, e.g., in Brazil). These include disputes as to the validity, scope, ownership, and claimed infringement of the CRYPTO.COM trademarks relied upon by Complainant, having regard in particular to arguments advanced by Respondent that the terms “crypto” and “cripto” are generic terms. The extraordinary length of Complainant’s Second Amended Complaint alone (which by far exceeds the word limit set forth by paragraph 3(b)(ix) of the Rules and paragraph 11 of the WIPO Supplemental Rules) perfectly demonstrates that the amount of facts, arguments and other aspects to the domain name dispute between the Parties goes far beyond the scope of what the UDRP can readily deal with and, therefore, requires a legal setting typically provided for in courts such as the US District Court, District of Arizona.

The Panel, therefore, finds that this specific domain name dispute between the Parties is far better suited to be handled before the competent US courts and, therefore, decides to exercise its discretion to terminate this UDRP proceeding. In doing so, the Panel is aware of the possibility (for the reasons discussed above) that the US District Court, District of Arizona, might conclude that Complainant has not consented to its jurisdiction. The Panel will, therefore, provide that Complainant may file a future UDRP complaint in respect of the disputed domain name against Respondent after resolution or discontinuation of the United States

court proceedings. See [WIPO Overview 3.0](#), section 4.14.3. This Panel, however, has concerns that also a refiled case, due to the mentioned complexity, would not fit under the UDRP regime and might be rejected by the appointed panel as outside the scope of the Policy. Moreover, should Complainant still exercise this granted right of refiling, it is now on express notice that any refiled complaint needs to comply with the applicable 5,000-word limit; in the event that this limit was to be exceeded, the appropriate sanction will be for the appointed panel to determine - but could again include dismissal of the refiled complaint irrespective of its merits.

Considering above, it is not necessary for the Panel to consider Respondent's request to file any further submissions.

## 7. Decision

For the foregoing reasons, this proceeding is being terminated on the grounds of paragraph 18(a) of the Policy, but without prejudice to Complainant's entitlement to the filing of a future UDRP complaint after resolution or discontinuation of the civil action filed by Respondent against Complainant on December 20, 2024, with the US District Court, District of Arizona.

*/Stephanie G. Hartung/*

**Stephanie G. Hartung**

Presiding Panelist

*/Chiang Ling Li/*

**Chiang Ling Li**

Panelist

*/Nick J. Gardner/*

**Nick J. Gardner**

Panelist

Date: January 21, 2025