

ADMINISTRATIVE PANEL DECISION

Royal Caribbean Cruises, Ltd. v. Anonymize, Inc. / Synergy Technologies, LLC¹

Case No. D2023-1708

1. The Parties

The Complainant is Royal Caribbean Cruises, Ltd., United States of America, represented by Sanchez Fischer Levine, LLP, United States of America.

The Respondent is Anonymize, Inc. / Synergy Technologies, LLC, United States of America, represented by ESQwire.com PC, United States of America. (See footnote 1, below.)

2. The Domain Name and Registrar

The Disputed Domain Name <starofthesea.com> is registered with Epik, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 18, 2023. On April 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On April 21, 2023, the Registrar transmitted by email to the Center its verification response disclosing contact information for the disputed domain name which differed from the contact information in the Complaint. The Center sent an email communication to the Complainant on April 27, 2023, providing the contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on the same day.

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

¹In response to the Center’s request for registrar verification, the Registrar stated: “The registrant of the domain is a client of Epik and is utilizing Anonymize as a private proxy. Anonymize [is] a Whois proxy service provider, which this domain is currently using. Thus, the current registrant is: Anonymize, Inc.” It is unclear from the record what the relationship is between the Registrar and Anonymize, Inc., but the Panel notes that the website at <anonymize.com> states: “Epik is happy to offer you WHOIS Privacy via Anonymize Inc.” Therefore, it would appear that the Registrar is in a position, but has refused, to identify the underlying registrant, as typically occurs in similar proceedings. Further, the Response states that Synergy Technologies is the registrant of the Disputed Domain Name and that “the Registrar is acting in violation of ICANN Rules by not updating the Respondent information upon receipt of a valid Complaint.” For purposes of this proceeding, the Panel considers the Respondent to be Synergy Technologies, LLC.

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 May 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 29, 2023. On May 5, 2023, Respondent requested an extension of time to submit the Response pursuant to Rule 5(b), which the Center granted on May 9, 2023, extending the due date until June 2, 2023. On May 23, 2023, Respondent requested a further extension of time to submit the Response because of “a loss in the family.” On the same date, Complainant stated that it had no objection to an extension of seven days. On May 24, 2023, the Center extended the due date for the Response until June 9, 2023. The Response was filed with the Center June 7, 2023.

The Center appointed Douglas M. Isenberg, Kathryn Lee and Georges Nahitchevansky as panelists in this matter on September 8, 2023. 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.

4. Factual Background

Complainant does not provide any information about itself other than with respect to its trademarks. Specifically, Complainant states that it is the owner in the United States of registrations for the following trademarks:

- U.S. Reg. No. 2,086,226 for GRANDEUR OF THE SEAS (registered August 5, 1997) for use in connection with “cruise ship services and transportation of persons by ship”
- U.S. Reg. No. 2,173,260 for ENCHANTMENT OF THE SEAS (registered July 14, 1998) for use in connection with “cruise ship services and transportation of persons by ship”
- U.S. Reg. No. 2,182,586 for RHAPSODY OF THE SEAS (registered August 18, 1998) for use in connection with “cruise ship services and transportation of persons by ship”
- U.S. Reg. No. 4,632,752 for OF THE SEAS (registered November 4, 2014) for use, *inter alia*, in connection with “cruise ship services; arranging and conducting cruises for others; transport of passengers”

Complaint further states that “[b]y 1998, the OF THE SEAS mark had become a distinctive identifier which consumers associated with Complainant’s cruises; especially because each of Complainant’s cruise ships bear the OF THE SEAS mark. Therefore, Complainant can establish the existence of a common law trademark right [in OF THE SEAS] subject to the provisions of the Policy”.

The Disputed Domain Name was created on October 7, 1998, and, a screenshot of the website associated with the Disputed Domain Name as provided by Complainant appears to be a monetized parking page with pay-per-click (“PPC”) links labeled “Online Catholic Mass,” “Roman Catholic Church” and “Live Catholic Mass Online.”

5. Parties’ Contentions

A. Complainant

Complainant contends, in relevant part, as follows:

- As a result of the trademark registrations cited above, “[b]y 1998, the OF THE SEAS mark had become a distinctive identifier which consumers associated with Complainant’s cruises; especially because each of Complainant’s cruise ships bear the OF THE SEAS mark. Therefore, Complainant can establish the existence of a common law trademark right [in OF THE SEAS] subject to the

provisions of the Policy". The Disputed Domain Name is identical or confusingly similar to the OF THE SEAS trademark because the Disputed Domain Name "fully incorporates" the mark except for the letter "s," which "does not affect a finding that the Domain Name is identical or confusingly similar to Complainant's registered trademark".

- Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, *inter alia*, "OF THE SEAS is an inherently distinctive term whose only meaning is its use as a means to identify Complainant as a source of certain products and services"; "Respondent is not a licensee of Complainant nor is Respondent otherwise authorized to use Complainant's OF THE SEAS mark for any purpose"; "[u]pon information and belief, Respondent is not commonly known as '<starofthesea.com>'"; and "Respondent's Domain Name is dormant, and therefore, it cannot establish rights or legitimate interests in '<starofthesea.com>'."
- The Disputed Domain Name was registered and is being used in bad faith because, *inter alia*: "Respondent registered and is using the Domain Name primarily to profit from and exploit Complainant's OF THE SEAS mark" by creating a web page with links that "direct the public to religious sites"; "Respondent is using the Domain Name in connection with a revenue-generating scheme pursuant to which Respondent receives some compensation from revenues generated by passing itself off as an extension of Complainant's brand name"; Respondent's use of the Disputed Domain Name in connection with a PPC page is "diversionary"; "Respondent knowingly registered the Domain Name containing Complainant's OF THE SEAS mark to capitalize on consumer recognition of the OF THE SEAS mark"; and "the designation OF THE SEAS is unique and distinctive such that it is unlikely that the Respondent devised the term <starofthesea.com> on its own."

B. Respondent

Respondent states, and provides a declaration in support thereof from the owner of Synergy Technologies, Inc.,² that it "has been in the business of buying, selling, leasing, and developing generic and descriptive domain names since April 26, 2007". Respondent further states that it purchased the Disputed Domain Name "through a public expired domain name auction in 2017" after the "original owner... did not renew the registration and allowed the Disputed Domain to expire in 2017". Respondent further states that it purchased the Disputed Domain Name "because of its inherent value as a reference to the Virgin Mary, and the English translation of the Latin term – 'Stella Maris,' a term that Respondent felt was important to own whether it could be developed, sold to a third-party end user, or resold on the secondary market." Respondent adds that it "registered the Disputed Domain, like many of its other Catholic related domain names, because it is a valuable, reference to the Virgin Mary, subject to third-party use and understanding by many churches worldwide and not because of Complainant's own purported trademark usage. Indeed, the Respondent's website, of which Complainant is aware, *is being used in connection with the religious meaning of the term.*" (Emphasis in original.)

Respondent states that "there is ample evidence of third-party use and public recognition of the term 'Star of the Sea' in reference to churches and other Catholic religious meaning rather than to identify or associate with Complainant's trademark(s)," including a Wikipedia entry "documenting the religious meaning"; a letter on the Vatican website "from Pope John Paul II, dated January 31, 1997 regarding Stella Maris (Star of the Sea)"; and "the first three (3) pages of Google search results for 'Star of the Sea'[, which] yields results with significant third-party use of the term in the religious context".

Respondent contends, in relevant part, as follows:

- "Respondent accepts the validity of Complainant's trademarks for 'OF THE SEAS' and other cruise ships using the '_____ OF THE SEAS' designation." Respondent does not address whether the Disputed Domain Name is identical or confusingly similar to such trademarks.

² See footnote 1, *supra*.

- Respondent has rights or legitimate interests in the Disputed Domain Name because, *inter alia*, “Respondent purchased the Disputed Domain solely because it believed the term ‘Star of the Sea’ was a generic religious reference and that it believed no party could claim exclusive rights”; “based on the significant and historic third-party usage, it is clear that many in the public understand ‘Star of the Sea’ as a reference to Stella Maris and a Catholic religious context”; “Respondent’s historical use of the Disputed Domain to present links and information related to the religious connotation and understanding of ‘Star of the Sea’ demonstrates a clear and recognizable good faith long predating any notice of the Complaint”; “Respondent’s ownership of the Disputed Domain as an investment because of its increasing inherent value also satisfies the legitimate interest prong of the Policy”; Respondent is the registrant of 94 “other valuable and memorable Catholic domain names,” including <bibleverses.org>, <saintanthonys.com>, and <spiritofthelord.com>; and “Respondent does *not* target trademarks” (emphasis in original).
- The Disputed Domain Name was not registered or used in bad faith because, *inter alia*, “Respondent has historically used the Disputed Domain to present links and information related to the religious connotation and understanding of ‘Star of the Sea’”; “Respondent registered the Disputed Domain simply because it was an expired and highly aged domain name that is a valuable .COM whose prior owner allowed to lapse and was offered for auction”; and “[a]bsent evidence of knowledge of and intent to target Complainant’s mark there can be no finding of bad faith registration.”

Finally, Respondent requests that the Panel enter a finding of Reverse Domain Name Hijacking given that, in part, “Complainant included as its own Exhibit... screen shots of Respondent’s website and use in connection with religious sites and the term’s religious meaning” and “represented parties are often held to a higher standard of conduct, especially in respect of reverse domain name hijacking” (emphasis omitted).

6. Discussion and Findings

Pursuant to the Policy, Complainant is required to prove the presence of each of the following three elements to obtain the relief it has requested, with respect to the Disputed Domain Name: (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; (ii) 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. Policy, paragraph 4(a).

A. Identical or Confusingly Similar

Based upon the trademark registrations cited by Complainant, it is apparent that Complainant has rights in and to the marks SOVEREIGN OF THE SEAS, GRANDEUR OF THE SEAS, ENCHANTMENT OF THE SEAS, RHAPSODY OF THE SEAS, and OF THE SEAS (the “SEAS Trademarks”).

As to whether the Disputed Domain Name is identical or confusingly similar to any or all of the SEAS Trademarks, the relevant comparison to be made is with the second-level portion of the Disputed Domain Name only (*i.e.*, “starofthesea”) because “[t]he applicable Top-Level Domain (‘TLD’) in a domain name (*e.g.*, ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test”. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.11.1.

In comparing the relevant portion of the Disputed Domain Name, “starofthesea,” to each of the SEAS Trademarks, the Panel employs “a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.” [WIPO Overview 3.0](#), section 1.7. Further, “[i]n cases where a domain name incorporates the entirety of a trademark... the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.” [WIPO Overview 3.0](#), section 1.7. Here, although the Disputed Domain Name does not contain the entirety of each of the SEAS Trademarks, it does contain the entirety of U.S. Reg. No.4,632,752 for OF THE SEAS, absent only the final letter “s.” Previous panels have found confusing similarity where

domain names contain a complainant's trademark in its entirety except – as here – for a single letter. See, e.g., *ArcelorMittal (SA) v. WhoisGuard Protected, WhoisGuard, Inc. / Flame zy, xls co*, WIPO Case No. [DME2017-0010](#) (domain name that “reproduces Complainant's trademark in its entirety, with the absence of just one letter” is confusingly similar to the trademark); *Instra Corporation Pty Ltd v. Domain Management SPM*, WIPO Case No. [D2009-1097](#) (a domain name that is “simply missing a single letter in the mark” is confusingly similar to the mark); and *Research In Motion Limited v. Privacy Locked LLC/Nat Collicot*, WIPO Case No. [D2009-0320](#) (a domain name that contains a complainant's trademark “absent one letter” is confusingly similar to the mark).

As a result of the above analysis, the Panel makes no determination as to whether the Disputed Domain Name is identical or confusingly similar to any of the SEAS Trademarks other than U.S. Reg. No.4,632,752. Further, the Panel notes that although U.S. Reg. No.4,632,752 was not issued until November 4, 2014 – after creation of the Disputed Domain Name on October 7, 1998, but before Respondent's stated acquisition of the Disputed Domain Name in 2017 – this fact is not relevant in its analysis on the first element of the Policy. See [WIPO Overview 3.0](#), section 3.8.1.

Accordingly, the Panel finds that Complainant has proven the first element of the Policy.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c)(i) of the Policy, a respondent can demonstrate that it has rights or legitimate interests in a disputed domain name by proving that “before any notice to [respondent] of the dispute, [respondent's] use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services.”

As set forth in section 2.9 of [WIPO Overview 3.0](#): “Panels have recognized that the use of a domain name to host a page comprising PPC links would be permissible – and therefore consistent with respondent rights or legitimate interests under the UDRP – where the domain name consists of an actual dictionary word(s) or phrase and is used to host PPC links genuinely related to the dictionary meaning of the word(s) or phrase comprising the domain name, and not to trade off the complainant's (or its competitor's) trademark.” Here, the PPC links on the website associated with the Disputed Domain Name – as shown in Complainant's own exhibit – are unrelated to Complainant or Complainant's trademarks and instead are solely related to the religious meaning of the phrase “Star of the Sea.”

Accordingly, the Panel finds that Respondent has demonstrated that it has rights or legitimate interests in the Disputed Domain Name.

C. Registered and Used in Bad Faith

Whether a domain name is registered and used in bad faith for purposes of the Policy may be determined by evaluating four (non-exhaustive) factors set forth in the Policy: (i) circumstances indicating that the registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration 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 registrant's documented out-of-pocket costs directly related to the domain name; or (ii) the registrant 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 registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the registrant's website or location or of a product or service on the registrant's website or location. Policy, paragraph 4(b).

Here, it is unclear which, if any, of these factors Complainant believes is applicable to Respondent's conduct. Although Complainant refers to Respondent's actions as "profit[ing] from and exploit[ing] Complainant's OF THE SEAS mark," Respondent "receive[ing] some compensation from revenues generated by passing itself off as an extension of Complainant's brand name," and "Respondent's diversionary use of Complainant's OF THE SEAS mark to redirect Internet users to Respondent's page," the facts in the record simply do not support any of this. Instead, the evidence shows that "Star of the Sea" is a known religious reference to the Virgin Mary and that Respondent has registered and used the Disputed Domain Name in connection with a PPC page that contains links unrelated to Complainant or Complainant's trademarks and instead solely related to the religious meaning of the phrase "Star of the Sea." Previous panels have found that use of a disputed domain name in connection with a PPC page that provides links connected to a common or dictionary meaning associated with the domain name, and unrelated to a complainant or a complainant's trademarks does not constitute bad faith. See, e.g., *Telect, Inc. v. Arvind Reddy*, WIPO Case No.

[D2017-1270](#) (finding no bad faith where PPC links "are generic" and "Complainant has failed to provide evidence that demonstrates that the Respondent is using the Disputed Domain Name to trade off the Complainant's reputation, to mislead Internet users, or to disrupt the Complainant's business"); and *Weeds, Inc. v. Registration Private, Domains By Proxy, LLC / Innovation HQ, Inc.*, WIPO Case No. [D2017-1517](#) (finding no bad faith where disputed domain name <weeds.com> was associated with a PPC site that contained links for "Container Gardening", "Fine Gardening", "Flora", "Gardening", "Green Plants", "Herb Gardening", "Home Gardening", "Horticulture", "Horticulture Magazines" and "House Plants").

Accordingly, there is no evidence that Respondent has used the Disputed Domain Name in bad faith and, for that reason alone, the Panel concludes that Complainant has not prevailed on the third element of the Policy.

D. Reverse Domain Name Hijacking

Paragraph 1 of the Rules defines Reverse Domain Name Hijacking ("RDNH") as "using the Policy in bad faith to attempt to deprive a registered domain-name holder of a domain name". Paragraph 15(e) of the Rules provides, in relevant part: "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 was brought primarily 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."

As set forth in section 4.16 of [WIPO Overview 3.0](#):

Reasons articulated by panels for finding RDNH include: (i) facts which demonstrate that the complainant knew it could not succeed as to any of the required three elements – such as the complainant's lack of relevant trademark rights, clear knowledge of respondent rights or legitimate interests, or clear knowledge of a lack of respondent bad faith..., (ii) facts which demonstrate that the complainant clearly ought to have known it could not succeed under any fair interpretation of facts reasonably available prior to the filing of the complaint, including relevant facts on the website at the disputed domain name or readily available public sources such as the Whois database, [or] (iii) unreasonably ignoring established Policy precedent notably as captured in this WIPO Overview – except in limited circumstances which *prima facie* justify advancing an alternative legal argument.

Given the undertakings in paragraphs 3(b)(xiii) and (xiv) of the UDRP Rules, some panels have held that a represented complainant should be held to a higher standard.

Here, as made clear above, it is obvious that Respondent has rights or legitimate interests in the Disputed Domain Name and that Respondent has not used the Disputed Domain Name in bad faith, because the PPC links on the website associated with the Disputed Domain Name – as shown in Complainant's own exhibit – are unrelated to Complainant or Complainant's trademarks and instead are solely related to the religious meaning of the phrase "Star of the Sea." Complainant (who is represented by an attorney) has cited no relevant authority that would support its conclusions to the contrary. Accordingly, the facts demonstrate that Complainant (via its attorney) knew or should have known it could not succeed as to two of the three required elements.

As a result, the Panel finds that the complaint was brought in bad faith, in an attempt at RDNH.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Douglas M. Isenberg/
Douglas M. Isenberg
Presiding Panelist

/Kathryn Lee/
Kathryn Lee
Panelist

/Georges Nahitchevansky/
Georges Nahitchevansky
Panelist
Date: September 22, 2023