



CANADIAN INTERNATIONAL INTERNET DISPUTE RESOLUTION CENTRE

DOMAIN NAME DISPUTE

ADMINISTRATIVE PANEL

DECISION

CIIDRC case number:	23351-UDRP	Decision date: August 16, 2024
Domain Name:	cronosgroup.com	
Panel:	Alan L. Limbury, Douglas M. Isenberg, and Gerald M. Levine (Presiding Panelist)	
Complainant:	Cronos Group Inc.	
Complainant's representative:	Saarah Khan	
Respondent:	Mira Holdings, Inc.	

1. PROCEDURAL HISTORY

The particulars of the case are as follows:

1. On June 24, 2024, Saarah Khan submitted a Complainant on behalf of Cronos Group, Inc. pursuant to the UDRP and the UDRP Rules.
2. On June 24, 2024, CIIDRC transmitted a request for Registrant verification to the Registrar, GoDaddy.com, LLC. On June 26, 2024, the Registrar responded providing the identity of the Registrant/Respondent.
3. The Complainant was informed of the Respondent's identity on June 26, 2024. On July 1, 2024 a revised Complaint was submitted.
4. CIIDRC has reviewed the Complaint and determined that it meets the formal requirements of the UDRP Policy, Rules, and CIIDRC Supplemental Rules.
5. On July 2, 2024, CIIDRC notified the Respondent of this administrative proceeding and forwarded a Written Notice of Complaint along with the Complaint.
6. On July 12, 2024, the Respondent requested 4-day extension to file its Response. As permitted by Rule 5(b), the Provider automatically granted the extension and notified the Parties.
- 7 The Respondent filed its Response to the Complaint via email on July 26, 2024.

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8. In this administrative proceeding, the Respondent has opted for a three-member Panel.

9. On August 2, 2024, CIIDRC appointed Gerald M. Levine, as a Presiding Panelist, Douglas M. Isenberg and Alan L. Limbury as Panelists in the above-referenced matter.

This matter is conducted pursuant to the Uniform Domain Name Dispute Resolution Policy (the Policy) and the Rules for Uniform Domain Name Dispute Resolution Policy (the Rules) of the Internet Corporation for Assigned Names and Numbers (ICANN).

The Disputed Domain Name was registered on March 3, 2023.

2. FACTS ALLEGED BY THE PARTIES

Cronos Group Inc. is a Canada-based global cannabinoid company trading publicly on the Nasdaq Global Market and Toronto Stock Exchange. The company has used the name “Cronos Group” since October 2016 and holds related trademark registrations for Cronos and Cronos Group in several countries for various services in the field of cannabis, with the earliest filing date in 2017. The company operates a website using the domain name <thecronosgroup.com>, as well as public social media accounts on LinkedIn and X.com under the name “Cronos Group.” As a publicly traded company, there is also extensive media coverage about Cronos Group, including by CNBC, *Business Insider*, *The New York Times*, *MarketWatch*, *The Wall Street Journal* and *The Globe and Mail*, among others.

The Respondent Mira Holdings, Inc. is a professional domain name investor with more than 1,000 generic domain names under ownership and offered for sale.

3. CONTENTIONS OF THE PARTIES

- **Complainant**

The Complainant alleges that Respondent registered the domain at issue years after Cronos Group began using the same name and years after Cronos Group registered trademarks for Cronos and Cronos Group. It has a history of registering trademark-abusive domains and is a serial litigant (as a respondent) before UDRP panels. *Second*, Respondent acquired the domain for the purpose of selling it for an excessive amount. In particular, Respondent referred to the domain name on multiple occasions as “this gem,” and demanded payments far in excess of the estimated value of the domain name, including through email communications with Cronos Group personnel and on the GoDaddy domain sales website (the domain was listed for sale for \$48,500), as well in Respondent’s response to Cronos Group’s letter in which it sought \$18,500. And third, the website parking page was also tied to a domain brokerage service specifically designed to “MAXIMIZE PROFITS” through domain name sales.

- **Respondent**

The Respondent alleges that based on strong domain valuations for combinations of words, it made the decision to purchase the domain name <cronosgroup.com> in March of 2023 when the domain became available in a public auction. The domain was expiring on March 3, 2023, so Respondent chose to participate in the public auction at Snapnames.com. If the Complainant had desired to acquire the domain, it could have placed a bid to join the public auction at Snapnames.com, or demanded that Snapnames stop the auction and award the Complainant the domain. They did neither. When Respondent won the domain at auction for \$2,849 USD, the price paid was based on the quality and memorable nature of the domain.

The Respondent also alleges that it owns the following "two-word" domains that have been purchased at auction in a similar manner: HydroGroup.com, GeminiGroup.com, ParkwayGroup.com, and VisionaryGroup.com. The Respondent alleges that this is consistent with its bona fide business plan of acquiring quality memorable domains to list for sale or lease to the general public, not specifically targeting the Complainant in any way.

The Respondent states that while it found that CRONOS was registered by many users on the USPTO database, there was no combination of that term with "Group." The Respondent also examined the WIPO Global Brand Database of Trademarks, noting only that this database produced a list of **180** brand trademarks for the term "Cronos." In addition, the Respondent produced evidence of a number of businesses marketing their goods or services under the sign "Cronos Group" that have no trademark registrations. It concludes by asking the following question: "Out of the many different entities using the 'Cronos' and the 'Cronos Group' names, which one has superior rights?"

The Respondent requests that the Panel find that the complaint was launched in bad faith and has engaged in reverse domain name hijacking. After the Complainant inquired about the asking price for the domain name, and found the amount to be "excessive," it proceeded with the UDRP proceeding under Plan B to deprive the Respondent of its lawfully registered domain name.

Remedy Sought

The Complainant requests the Domain Name be transferred to it.

4. DISCUSSION AND FINDINGS

4.1 Requirements

In accordance with Paragraph 4 of the Policy, the onus is on the Complainant to prove that:

1. the Domain Name is Identical or Confusingly Similar to a trademark or service mark in which the Complainant has rights;
2. the Respondent has no rights or legitimate interests in respect of the Domain Name; and
3. the Domain Name has been registered and is being used in bad faith.

The Panel will consider each of these requirements in turn.

4.2 Analysis

4.2.1 The Domain Name is Identical or Confusingly Similar to a Mark in which the Complainant has Rights

The Complainant has demonstrated that it has registered trademarks for the term CRONOS GROUP in Canada and Australia. To succeed on this element, it is sufficient for the Complainant to demonstrate that it has registered or unregistered rights in some jurisdiction even though it may not have registered rights in the jurisdiction in which the Respondent is domiciled. Save for the addition of the .com generic Top Level Domain which is generally disregarded as a mere functional element, at its second level <cronosgroup.com> is identical to Complainant's mark.

For these reasons, the Complainant satisfies the first element of the Policy.

4.2.2 Rights or Legitimate Interests in respect of the Domain Name

The Panel finds it unnecessary to make any findings on the issue of rights or legitimate interests as the dispositive issue in this case can be determined on the record developed in addressing the third element of the Policy.

4.2.3 Registration and Use of the Domain Name in Bad Faith

Under the third element of the Policy, a complainant is charged with the burden of proving that the respondent both registered and is using the disputed domain name in bad faith. This is a conjunctive, not a disjunctive, requirement. Although it may be inferred that if a disputed domain name is used in bad faith it more probably than not was registered in bad faith, it cannot be inferred that because a domain name corresponds with a trademark it has for that reason alone been registered in bad faith.

Accordingly, only if the proof supports bad faith use will the Complainant have satisfied the conjunctive requirement. For this reason, the Panel's analysis must begin with an examination of the Complainant's reputation and whether under the circumstance present in this record the Respondent must have had actual knowledge of the Complainant or its mark upon bidding for it in light of the history of use by other commercial users prior to and contemporaneous with Complainant's first use in 2017.

The Complainant demonstrates that it is a global cannabinoid company trading publicly on the Nasdaq Global Market and Toronto Stock Exchange. However, as a business operating in a niche market, its reputation will necessarily be limited to consumers who may take an interest in its product or services, and its offering is not of a kind that forces itself on a person's attention by its ubiquity of market presence. Unless there is already an interest in cannabinoids, there is no reason to accept without evidence to the contrary that the Respondent's managers are users of Complainant's products or services or have any knowledge of the Complainant. Nor is there any evidence in the website to which the domain name resolves that would suggest or compel such an

inference. Notably, there is no evidence that Respondent has ever used the domain name in connection with cannabinoid goods or services or otherwise to target Complainant.

The Panel notes that prior to the Complainant's first use in commerce of CRONOS GROUP, <cronosgroup.com> had been registered to an earlier registrant. Taking this together with evidence that there are other users of the same term is not inconsistent with "Cronos Group" as a common phrase. This fact cannot be ignored in determining the parties' rights to <cronosgroup.com>. Although the parties have not expressly addressed the issue of prior ownership of <cronosgroup.com>, it can readily be deduced that when the Complainant entered the market in or around 2017, <cronosgroup.com> was not available and the Complainant instead chose to offer its online services using the domain name <thecronosgroup.com>.

The Respondent In this case identifies itself as an investor in domain names. It states that in the regular course of its business it acquires domain names at dropped domain name auctions. In this manner it acquired <cronosgroup.com> as well as at other auctions other <DictionaryWord+Group.com> domain names. It has also demonstrated that CRONOS GROUP is not exclusively used by the Complainant or exclusive to it, and as earlier noted <cronosgroup.com> preexisted the Complainant's first use in commerce. While the Complainant's descriptive mark is distinctive in having been accepted by trademark registration authorities, it is also a descriptive term in common use. The Complainant adduces no evidence that the phrase has acquired secondary meaning such that the term is exclusively associated with it and none other or that its trademark has become famous or widely known. Taking all these facts into account, the Panel concludes that the Respondent's denial of awareness of the Complainant or its mark is plausible.

Complainant's evidence of bad faith—it does not attempt to separate bad faith registration and bad faith use—focuses on the Respondent's business as an investor in domain names and is largely deprecatory. Thus, it asserts that the Respondent "has a history of registering trademark-abusive domains and is a serial litigant (as a respondent) before UDRP panels," that it "acquired the domain for the purpose of selling it for an excessive amount," and that "the website parking page was also tied to a domain brokerage service specifically designed to 'MAXIMIZE PROFITS' through domain name sales." This may all be true for it is in the nature of domain investing to buy low and sell high, but unless there is some act or conduct in addition to the desire to "maximize profits" it does not support bad faith. Thus: "Domain name speculation alone is not bad faith." *Dr. Muscle v. Michael Krell*, FA190300 1833036, (April 19, 2019). "Rather, to constitute bad faith, the speculation must be targeted to the trademark value of a name..." See also WIPO Overview (3.0, 2017,) Sec. 2.1: "Over the course of many UDRP cases, panels have acknowledged further grounds which, while not codified in the UDRP as such, would establish respondent rights or legitimate interests in a domain name. For example, generally speaking, panels have accepted that aggregating and holding domain names (usually for resale) consisting of acronyms, dictionary words, or common phrases can be bona fide and is not per se illegitimate under the UDRP". The website to which <cronosgroup.com> resolves states "This domain is available for sale!"

Complainant cites several cases in support of its argument that excessive pricing and speculation may support bad faith, but these same cases generally underscore in their reasoning that there is always something more

that supports the award. The something more in *İD Group v. Nomi Nee / Aero1 Ltd, No Lo / Aerol Ltd*, D2012-2469 (WIPO February 22, 2013) is typosquatting on the inherently distinctive mark JACADI. Adding an additional “c”, <jaccadi.com> does not create a name distinctive from JACADI. In *Merck Sharp & Dohme Corp., MSD Consumer Care, Inc. v. Michael Johnson, THIS DOMAIN NAME IS FOR SALE*, D2014-0172 (WIPO April 1, 2014) the Complainant owned the coined word MEXANA to which the Respondent added a .com and argued that the domain name was not in bad faith because the Complainant did not own a trademark in “Mexana.com.” The Panel found that the “apparent search for a ‘mexana.com’ mark as opposed to ‘mexana’ seems to be designed to avoid finding any result.” Something more can similarly be found in the other cited cases, and the Panel finds it unnecessary to address them separately. The Panel does not discount Complainant’s argument that the Respondent “is a serial litigant in domain name disputes” but the Panel finds that Respondent has successfully defended at least five of them and in this particular case “Cronos Group” does not fit the pattern of cybersquatting.

Finally, the Respondent has demonstrated that the Complainant is not the exclusive user of “Cronos Group” to market its goods or services. Complainant has not demonstrated why it has any greater right to “cronosgroup.com” than the other companies that use that sign in commerce. If any inference can be drawn, it would be that the acquisition of such a domain name incorporating a non-exclusive phrase has a potential market for commercial users offering goods or services in fields unrelated to the business of cannabinoids.

The underlying principle applied to common phrases is aptly discussed in *Pet Warehouse v. Pets.Com, Inc.*, D2000-0105 (WIPO April 14, 2000) (“[I]t is possible for two generic terms taken together to achieve trademark or service mark status by achieving a sufficient level of secondary meaning in the relevant community. However, the burden on the party making a claim to distinctiveness or secondary meaning in such a case is high because of the disinclination of the courts to take words of ordinary meaning out of common usage.”)

For these reasons, the Panel finds that the Complainant has failed to establish that the Respondent is using <cronosgroup.com> in bad faith. Accordingly, the Complainant has not satisfied its burden of proof under the third element and the complaint must be dismissed.

5 REVERSE DOMAIN NAME HIJACKING

The Respondent has requested that the Panel issue a finding that Complainant has engaged in reverse domain name hijacking pursuant to UDRP Rule 15(e). It argues that “Complainant did very little due diligence to learn about a fair price for the domain name “CronosGroup.com” and “Complainant chose ‘Plan B’ [. . .] to get control of the domain through a legal proceeding rather than purchase the domain for a price that Complainant apparently deemed ‘too high.’” What may appear as Plan B to a respondent may to a complainant simply be protecting its trademark from what it regards as predation. The fact that supports RDNH in this case hinges on both the commonness of the term “Cronos Group” (it was already a registered domain name preexisting the Complainant’s first use of its mark in commerce) and the general use by others offering noninfringing goods or services using the same commercial sign. Unless there is evidence of actual knowledge of a complainant and its mark and acquisition for an illicit purpose, no inference can be drawn of bad faith. The Panel recognizes that

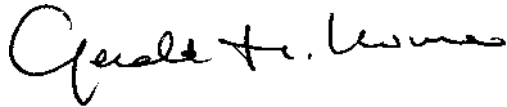
in this case, the Complainant was represented in-house by a person likely unfamiliar with the jurisprudence of the UDRP. This is not an excuse for commencing a UDRP proceeding. For these reasons, the Panel finds that the Complainant launched this complaint without any evidence that the Respondent had or could have had actual knowledge of its mark when it acquired the dropped domain name at auction and that it is, indeed, a case of a Plan B attempt to deprive the Respondent of its right to hold and sell its assets on its own terms.

6 DECISION and ORDER

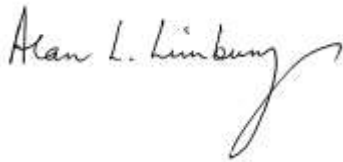
For the above reasons, in accordance with Paragraph 4 of the Policy, Paragraph 15 of the Rules, and Rule 10 of the Supplemental Rules, the Panel orders that <cronosgroup.com> remain with the Respondent and finds that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding.

Made as of August 16, 2024

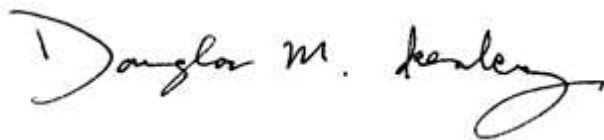
SIGNATURE OF PANEL



Gerald M. Levine



Alan L. Limbury



Douglas M. Isenberg

