



CANADIAN INTERNATIONAL INTERNET DISPUTE RESOLUTION

DOMAIN NAME DISPUTE ADMINISTRATIVE PANEL DECISION

CIIDRC case number:	25374-CDRP	Decision date: September 9, 2025
Domain Name:	cityofhearts.ca	
Panel:	Gerald M. Levine (Chair), Robert Fashler and James Plotkin	
Complainant:	City of Port Moody	
Complainant's Representative	Craig Ash and Garth Leslie of Oyen Wiggs Green & Mutala LLP	
Registrant:	Aldo Difelice	

1. PROCEDURAL HISTORY

The procedural history of this case was set out in a letter from the Canadian International Internet Dispute Resolution Centre to the Panel dated August 22, 2025:

- On June 27, 2025, Craig Ash and Garth Leslie of Oyen Wiggs Green & Mutala LLP, filed a Complaint on behalf of City of Port Moody, pursuant to the CDRP and the Resolution Rules. The required commencement fee was paid on July 3, 2025. The complaint was in administrative compliance with CIRA's requirements under Rule 3.2.
- On July 4, 2025, CIRA was notified of this proceeding and on the same day, CIRA transmitted by email to CIIDRC its verification response informing that the registrant of the Disputed Domain Name is Aldo Difelice (the "Registrant"). CIRA also confirmed

Domain Name: cityofhearts.ca

25374-CDRP

that the disputed domain name was placed on a Registrar LOCK and that the Domain Name has a Registration Date of 2015-03-26 (the "Registration Date").

- Pursuant to Resolution Rule 4.4, CIIDRC notified the Registrant of this administrative proceeding and forwarded a Notice of Complaint along with the Complaint to the Registrant on July 7, 2025.
- The deadline for submitting a Response was set for July 28, 2025.
- On July 23, 2025, Mr. M. Imtiaz Karamat, counsel for the Registrant, requested an extension of time to file the Registrant's Response. Consequently, the deadline for the Registrant to submit its Response was extended to August 15, 2025.
- On August 15, 2025, Mr. Karamat filed the Registrant's Response to the Complaint in accordance with the CIRA Domain Name Dispute Resolution Rules.
- On September 2, 2025, the Complainant submitted a Further Submission together with a further set of Annexes.

Panel Appointment

- In accordance with Paragraph 6 of the Rules, the Provider appointed a three-member Panel, with consideration to the nominees of the parties, and selected a Chair.
- CIIDRC names **Robert Fashler** and **James Plotkin**, as panelists. **Gerald M. Levine** is named as Chair of the Panel. Each of the named panelists confirm acceptance of appointment and declared their impartiality and independence as required under Paragraph 7 of the Resolution Rules.
- . Absent exceptional circumstances, and pursuant to Resolution Rule 12.2, your decision is due by **September 12, 2025**.

The Domain Name was registered on March 26, 2015.

This matter is conducted pursuant to the Canadian Dispute Resolution Policy (the CDRP) and the Canadian Dispute Resolution Rules (the Resolution Rules) of the Canadian Internet Registry Authority.

Domain Name: cityofhearts.ca

25374-CDRP

1. REGARDING COMPLAINANT'S FURTHER SUBMISSIONS

The Panel has closely examined Complainant's Further Submissions. As the Panel has determined that the record already provides all the information necessary to render an informed decision without considering the Further Submissions, it declines to accept the Complainant's Further Submissions. Moreover, additional submissions of this sort are meant to supplement a Complainant's initial submission when the Registrant's identity is unknown at the time of the Complaint. It is not meant to afford an automatic right of reply or otherwise permit the Complainant to split its case.

2. FACTS ALLEGED BY THE PARTIES

The facts set out below are taken from the parties' pleadings:

Complainant

1. The City of Port Moody is a municipality in the Province of British Columbia that was incorporated on March 11, 1913 by letters patent pursuant to Order-in-Council 0387-1913. As of the 2021 census, the Complainant had a population of 33,535.
2. At the Complainant's request, the Registrar of Trademarks published notice of the Complainant's adoption and use of the mark CITY OF THE ARTS as an official mark pursuant to s. 9(1)(n)(iii) of the *Trademarks Act*, under No. 915810.
3. The Complaint states that it has used its official mark in Canada in association with a wide variety of goods and services, which has generated some reputation and goodwill. It operates a website hosted at the domain name <portmoody.ca> on which the Complainant's official mark is prominently displayed on the left side of the banner, below "Port Moody" on each page of the Complainant's Website.
4. The Complainant was previously the registered owner of the Domain Name, having owned the same from at least as early as 9 January 2002 until sometime between 2013 and 26 March 2015. It alleges that, through internal oversight, it unintentionally allowed the registration to the Domain Name to expire.

Domain Name: cityofthearts.ca

25374-CDRP

5. Prior to this inadvertent lapse, the Complainant initially had a website at the Domain Name (evidenced by a print-out of a Wayback Machine capture of the Complainant's website at the Domain Name on 9 January 2002). At that time, the Complainant used the Domain Name to redirect internet users to the Complainant's website at: <http://www.cityofportmoody.com /Arts/default.htm>.

Registrant

1. The Registrant is the president and managing partner of TLN Media Group ("**TMG**"), a Canadian-owned media company specializing in culturally diverse television content and live event programming. TMG is committed to reflecting Canada's multicultural landscape through a wide range of arts and culture activities.

2. Many of TMG's initiatives are in the city of Toronto, Ontario. For example, it is a co-founder of the TD Salsa on St. Clair Street Festival – a nationally recognized celebration of Latino arts and culture that has taken place annually in Toronto for over 20 years. It promoted a similar event in Tremblant, Québec.

3. CONTENTIONS OF THE PARTIES

The facts and assertions set out below are taken from the parties' pleadings.

- **Complainant**

The Complainant contends:

1. The Complainant's Mark has been protected as an official mark under s. 9(1)(n)(iii) of the *Trademarks Act* since 16 June 2004 (when the Registrar of Trademarks gave public notice of the Complainant's adoption and use of the Complainant's Mark as an official mark). The Complainant continues to have those rights to the present (e.g. see the Certificate of Authenticity (certified copy) in Annex 5, which was issued recently by the Canadian Intellectual Property Office).

Domain Name: cityofthearts.ca

25374-CDRP

2. The Registrant registered the Domain Name on 26 March 2015 following the Complainant's inadvertence failure to renew <cityofthearts.ca>.

3. To the Complainant's knowledge, the Registrant has never operated a website at the Domain Name in the over ten years since the Registrant registered the Domain Name. At least as early as 2018, the Domain Name has resolved to a parking page, and, beginning at some time after 2019 and continuing to the present, the Domain Name has been used to resolve to a parking page used to generate revenue through what the Complainant believes to be pay-per-click advertising, based on the links being marked as "Sponsored".

4. A capture of the web page by the Wayback Machine on 13 May 2019 reads "Welcome to cityofthearts.ca. This domain is registered, but may still be available. If you're interested, try our Domain Broker service."

5. As a result of the Registrar of Trademarks having given public notice of the Official Mark, the Registrant of the Domain Name (i.e. aldo(sic) difelice(sic)) should be taken as having actual knowledge of the Complainant's Mark.

6. In the alternative, the Complainant submits that the Registrant at least had constructive knowledge of the Complainant's Mark having regard to the Complainant's long prior use, previous ownership of the Domain Name and prior public notice of the Official Mark .

7. The Complaint contends that the Registrant registered the Domain Name in bad faith within the meaning of paragraph 3.5(c) of the Policy, that "...the Registrant registered the domain name or acquired the Registration primarily for the purpose of disrupting the business of the Complainant, or the Complainant's licensor or licensee of the Mark, who is a competitor of the Registrant."

8. The Complainant contends that the Registrant's registration of the Domain Name has also prevented the Complainant from re-registering the Domain Name, which the Complainant had previously owned and used for many years.

Domain Name: cityofthearts.ca

25374-CDRP

9. The Complainant asserted that the Registrant intentionally attempted to attract, for commercial gain, Internet users to the Registrant's website or other online location (i.e. the parking page at the Domain Name), by creating a likelihood of confusion with the Complainant's Official 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, demonstrating bad faith within the meaning of paragraph 3.5(d) of the Policy.

10. The Complainant alternatively asserted that the Panel should exercise the discretion conferred on it by the introductory wording of paragraph 3.5 of the Policy to find that the Registrant's conduct constituted bad faith of a type not specifically identified in the subparagraphs of paragraph 3.5.

- **Registrant**

The Registrant contends:

1. On 26 March 2015, the Registrant, on behalf of TMG (known as Telelatino Network Inc. at the time), registered the Domain Name for future use in connection with TMG art and culture activities in Toronto.

2. The Registrant was not aware of the Complainant's claim to ownership of the Domain Name or Complainant's Mark CITY OF THE ARTS when the Registrant registered the Domain Name.

3. The Domain Name registration was part of ongoing efforts by the Registrant to support TMG's activities in the arts and culture space. For example, on 30 October 2015, the Registrant was involved in the incorporation of a Canadian not-for-profit corporation, the Canadian Salsa Festivals Project ("CSFP") "To develop, produce, support, promote and present ethnoculturally relevant heritage-based works and experiences which elevate public appreciation, understanding and participating in Canada's rich multicultural traditions".

Domain Name: cityofthearts.ca

25374-CDRP

4. Since its incorporation, the CSFP has gone on to produce the TD Salsa in Toronto Festival, TD Salsa on St. Clair Street Festival, and other art and cultural experiences in the city of Toronto.

5. The CSFP's involvement is also documented in online posts associated with Toronto, Ontario.

6. Following registration of the Domain Name, a technical internal oversight resulted in the Domain Name not being linked to any TMG associated website. This was inadvertent and unintentional.

7. As a result of this oversight, the Domain Name was inactive and began resolving to "parking pages" with apparent pay-per-click advertisements. The Registrant did not intentionally seek to use the Domain Name to host parking pages with these pay-per-click advertisements and was not aware that these advertisements were being displayed in connection with the Domain Name. Furthermore, the Registrant is not aware of any revenue received by the Registrant from these advertisements between 2018 and 2025.

8. Following the Registrant's receipt of correspondence from the Complainant regarding the Domain Name, the Registrant promptly reviewed the links on the parking pages and identified the oversight that prevented the Domain Name from linking to any TMG associated websites on 2 July 2025. Once identified, the Registrant fixed this problem and the Domain Name now redirects internet users to the website: <salsaintoronto.com> in support of TMG's arts and culture activities in Toronto, including the TD Salsa in Toronto Festival and the TD Salsa on St. Clair Street Festival.

- **Remedy Sought**

The Complainant requests the Domain Name be transferred to it.

Domain Name: cityofthearts.ca

25374-CDRP

4. DISCUSSION AND FINDINGS

4.1 Eligibility

Paragraph 1.4 of the CDRP provides: “The person initiating a Proceeding (the ‘Complainant’) must, at the time of submitting a complaint (the ‘Complaint’), satisfy the Canadian Presence Requirements for Registrants (the ‘CPR’) in respect of the domain name that is the subject of the Proceeding unless the Complaint relates to a trade-mark registered in the Canadian Intellectual Property Office (‘CIPO’) and the Complainant is the owner of the trade-mark.”

Paragraph 2 of the CPR provides at subsection (16) “a regional, municipal or local area government” and (18) “a Person intended to be protected by Subsection 9(1) of the *TradeMarks Act* (Canada) at whose request the Registrar of Trade-marks has published notice of adoption of any badge, crest, emblem, official mark or other mark pursuant to Subsection 9(1) are eligible to maintain a proceeding under paragraph 1.4.

Accordingly, the Panel finds that the Complainant is an eligible complainant under paragraph 1.4 of the CDRP in that it currently owns an official mark for CITY OF THE ARTS notice of which was published by CIPO on 16 June 2004.

4.2 Requirements

In accordance with Paragraph 4.1 of the CDRP, the onus is on the Complainant to prove, on a balance of probabilities, that:

- (a) the Domain Name is Confusingly Similar to a Mark in which the Complainant had Rights prior to the date of registration of the domain name and continues to have such Rights; and
- (b) the Domain Name has been registered in bad faith.

and the Complainant must provide “some evidence” that:

- (c) the Registrant has no legitimate interest in the Domain Name.

Domain Name: cityofthearts.ca

25374-CDRP

The Panel will address each of these requirements in turn.

4.3 Analysis

4.3.1 Whether the Domain Name is Confusingly Similar to a Mark in which the Complainant has Prior Rights

Paragraph 3.3 of the Policy provides that a domain name is confusingly similar to a mark if the domain name so nearly resembles the mark in appearance, sound or the ideas suggested by the trade-mark as to be likely to be mistaken for the mark. In order to prove the first element the Complainant must not only establish that the disputed domain name is confusingly similar to its mark, but also under paragraphs 3.1.a) that the Complainant's rights predate "the date of registration of the disputed domain name and that continues to have such rights".

According to the evidence submitted to the Panel, the Complainant is the owner of the official mark CITY OF THE ARTS, publication No. 915810 dated June 16, 2004. The Registrant acquired <cityofthearts.ca> on March 26, 2015, thus the Complainant's official mark rights predated the domain name.

Except for the Top-Level Domain, the disputed domain name <cityofthearts.ca> is identical to the Complainant's official mark thus confusingly similar to that mark. See *Birkenstock Sales GmbH v Vytas Klimavicius/Litamber Media Corporation*, CIRA Decision No. 437 at para 15 (holding that "[t]he Complainant is the owner of the registered Canadian trade-mark in which the exact word component is included within the Domain Name").

Accordingly, the Panel finds that Complainant satisfies Paragraph 4.1(a) of the CDRP.

4.3.2 Whether the Registrant has Registered the Domain Name in Bad Faith

By itself, the registration of a trademark or public notice of an official mark is not conclusive that a corresponding domain name was registered in bad faith. Paragraph 3.5 sets forth four, non-exhaustive scenarios that, "if found by the Panel to be present,

Domain Name: cityofthearts.ca

25374-CDRP

shall be evidence that a Registrant has registered a domain name in bad faith for assessing a bad faith registration.” These are:

- a. the Registrant registered the domain name, or acquired the Registration, primarily for the purpose of selling, renting, licensing or otherwise transferring the Registration to the Complainant, or the Complainant’s licensor or licensee of the Mark, or to a competitor of the Complainant or the licensee or licensor for valuable consideration in excess of the Registrant’s actual costs in registering the domain name, or acquiring the Registration;
- b. the Registrant registered the domain name or acquired the Registration in order to prevent the Complainant, or the Complainant’s licensor or licensee of the Mark, from registering the Mark as a domain name, provided that the Registrant, alone or in concert with one or more additional persons has engaged in a pattern of registering domain names in order to prevent persons who have Rights in Marks from registering the Marks as domain names;
- c. the Registrant registered the domain name or acquired the Registration primarily for the purpose of disrupting the business of the Complainant, or the Complainant’s licensor or licensee of the Mark, who is a competitor of the Registrant; or
- d. the Registrant has intentionally attempted to attract, for commercial gain, Internet users to the Registrant’s 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 Registrant’s website or location or of a product or service on the Registrant’s website or location.

As the Complainant has proffered no evidence of bad faith under subparagraph 3.5(a) it is unnecessary to address this issue further.

With regard to subparagraph 3.5(b), although in a literal sense the Registrant’s acquisition of an available domain name prevented the Complainant from “registering the Mark as a domain name” the Complainant has adduced no evidence to support the notion that the Registrant “has engaged in a pattern of registering domain name in order to prevent persons who have Rights in Marks from registering the Marks as domain names.” Further, nothing on the record suggests the Registrant exhibits the classic habits of a cybersquatter (e.g., registering a large volume of domain names identical or confusingly similar to well-known trademarks and then offering them for sale to the trademark owners for a substantial sum).

Domain Name: cityofthearts.ca

The Panel notes in this regard that the Complainant as the prior holder of <cityofhearts.ca> lost it by inadvertently failing to renew the registration. Failure to renew the registration agreement has consequences as spelled out in the GoDaddy Registration Agreement, Section 3(B)). It states that “the domain name will be cancelled and you will no longer have use of that name.” As a result, <cityofhearts.ca> was returned to the general pool for the first to register it.

With regard to subparagraph 3.05(c) the fact that the Registrant is the current holder of the domain name is not, without more, evidence that it is a competitor of the Complainant. While that something more may be found in hyperlinks to a complainant’s competitors, the hyperlinks on the GoDaddy pages (which only began appearing in 2018) have no connection to the Complainant. In one Annex the page reads “This Web page is parked for FREE, courtesy of GoDaddy.com.” Another Annex contains links to Toronto Condominiums. Another is a GoDaddy advertisement that reads: “This domain is registered, but may still be available. If you’re interested, try our Domain Broker service.” There is no evidence before the Panel from which it can draw an adverse inference that the links were targeting the Complainant or that Godaddy was acting on the Registrant’s instructions.

The Complainant has brought to the Panel's attention several decisions involving dot ca cases that it contends support its argument that the Registrant registered <cityofhearts.ca> in bad faith. The Panel has reviewed these decisions. They are not persuasive. The Panel notes that the trademarks in these cases were either highly distinctive and/or well known : "AADAC — Alberta Alcohol And Drug Abuse Commission An Agency of the Government of Alberta Design; Dixie; Blanco; and Papa John's. In the AADAC case, the Respondent did not file a Response, and the Complainant proved a history of abusive domain name registrations. The Panel also notes that the registrants in these cases defaulted in appearance as they had no meritorious defense.

In contrast to these marks, the mark in issue in this case is nondescript and there is no evidence to the contrary: See WIPO Overview of Panelists Views of Selected Questions, 3.0, sec. 1.3 (although this relates to common law rights the section lists the kind of evidence that would establish its reputation). Put simply, there is no one city that may truly lay claim to being the “city of the arts”, and the Complainant has put forward little to no evidence that the average

Domain Name: cityofhearts.ca

25374-CDRP

Canadian would think of Port Moody, B.C. when hearing that phrase. The domain name could equally be used by others without infringing the Complainant's rights.

Turning to paragraph 3.05(d), central to a finding under this ground is that the registrant has such a reputation that denial is implausible. That is not the case here. The Registrant contends that it was not aware of the Complainant's claim to ownership of the Domain Name or Complainant's Mark CITY OF THE ARTS when the Registrant registered the Domain Name following the Complainant's inadvertent lapse in renewing of its registration for the domain name. As noted above, the Complainant adduces no evidence that its official mark could or should have been known to the Registrant. Neither has the Complainant adduced evidence that the Registrant has used the domain name in any manner that would allow the Panel to infer that the Registrant intended "to attract, for commercial gain, Internet users to the Registrant's website or other on-line location."

Here, instead of presenting evidence that its mark was of a caliber equal to the marks in the cited cases it simply relies on: 1) the "Official Mark Advertisement had occurred more than 10 years prior;" 2) that the "Complainant long prior use of the Complainant's Mark and long prior ownership and use of the Domain Name, the Registrant must have had actual knowledge of the Complainant's rights in the Complainant's Mark when the Registrant registered the Domain Name"; and 3) in the alternative that Registrant must be considered to have had constructive notice. See *Guess? IP Holder LP v Mike Jones* 22307-CDRP (February 21, 2024), in which the Panel held that "[i]nherently prerequisite to a finding of bad faith is some attribution of knowledge of a complainant's trademark, whether actual or based upon a conclusion that a registrant should have known of the mark." See also, WIPO Overview of Panelists Views of Selected Questions, 3.0, sec. 2.2.3: "Application of this concept [constructive notice] may depend in part on the complainant's reputation and the strength or distinctiveness of its mark, or facts that corroborate an awareness of the complainant's mark."

In determining the issue of actual knowledge, it "is not whether the Respondent 'could' or 'should' have known of the Complainant's trade mark but rather whether, on the balance of probabilities, it is likely that the Respondent was in fact aware of the Complainant's trade mark on registration of the disputed domain name," *WALA-Heilmittel GmbH v. Canada Jumeira /*

Domain Name: cityofthearts.ca

25374-CDRP

Contact Privacy Inc., WIPO Claim No. D2013-0782. Proof of actual knowledge is not satisfied by arguing that a complainant's trademark is exhibited on its website

For the foregoing reasons, the Panel finds that the Complainant has not satisfied its burden of proof under Paragraph 4.1(b) of the CDRP.

4.3.3 Whether the Registrant has Legitimate Interest in the Domain Name

In view of the Panel's finding under the bad faith head, it is not strictly necessary to determine whether the Registrant has a legitimate interest in the domain name. However, for completion of its assessment, the Panel finds the Registrant's explanation that <cityofhearts.ca> was acquired for use by a third party who is not the registrant in this matter does not satisfy the Policy's requirements. For this reason, the Panel finds that the Registrant has not established that it has a legitimate interest in the domain name.

DECISION and ORDER

The Registrant has pointed out that if the Complainant is of the opinion that its rights in its official mark have been infringed then it has remedies under the Trademarks Act. The Panel takes no position on this. Its decision is limited by the record in this case.

For the above reasons, in accordance with Paragraph 4 of the CDRP and Paragraph 12 of the Resolution Rules, the Panel orders that <cityofhearts.ca> shall remain with the Registrant.

Made as of September 9, 2025

SIGNATURES OF PANEL



Gerald M. Levine, Chair



Robert Fashler, FCI Arb



James Plotkin, Q. Arb

Domain Name: cityofhearts.ca

25374-CDRP