



Asian Domain Name Dispute Resolution Centre

hongkong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-1801079
Complainant:	Crown Melbourne Limited
Respondent:	Robert Kaay
Disputed Domain Name(s):	<crownperth.com>

1. The Parties and Contested Domain Name

The Complainant is Crown Melbourne Limited, of 8 Whiteman Street, Southbank, VIC, 3006, Australia.

The Respondent is Robert Kaay, of 57 Labouchere Road, South Perth, WA 6151, Australia.

The domain name at issue is crownperth.com, which is currently registered by the Respondent with Uniregistrar Corp, of 3-110 Governors Square, 1361 GT, Grand Cayman KY11108, Cayman Islands.

2. Procedural History

The Complaint was filed with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre ("ADNDRC")["Center"] on March 5, 2018, seeking for a transfer of the domain name in dispute.

On March 5, 2018, the Center sent an email asking for the detailed data of the registrant to the registration organization, and the registration organization, on March 6, 2018, responded with the detailed data checked, including checking over the registrant.

On March 7, 2018, the Center examined whether the Complaint meets formal requirements set out in the Uniform Domain Name Dispute Resolution Policy (the "Policy"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the ADNDRC Supplemental Rules (the "Supplemental Rules").

On March 8, 2018, the Center sent to the Respondent the "Written Notice of Complaint" along with the Complaint via email. The Center informed the Respondent of a due date, March 28, 2018, for the submission of its Response.

On March 29, 2018, the Center confirmed that the Respondent didn't submit the Response Form.

On April 4, 2018, the Center appointed Mr. Doo-Hyung Do as the Sole Panelist of this case, and with the consent for the appointment, impartiality and independence declared and confirmed by the panelist, the Center, in accordance with Paragraph 7 of the Rules, organized the Panel of this case in a legitimate way.

3. Factual background

The Complainant, commonly known as "Crown Melbourne," is a wholly-owned subsidiary of Crown Resorts Limited, which is one of Australia's largest entertainment groups. First opened in 1997, The Complainant, first opened in 1997, is one of Australia's leading luxury resorts featuring over 1,600 hotel rooms, spas, pools, retail, signature restaurants, a convention center, casino and live entertainment.

Crown Perth, belonging to Crown Resorts Limited group, is one of Western Australia's premier integrated resorts and offers world-class convention and gaming facilities, three hotels, spas, resort pools, restaurants and bars, nightclub and 2,300-seat theatre. Crown Perth, since it first opened in 1985, remains as a significant tourist attraction in Western Australia.

The Complainant is the owner of trademark registrations across various jurisdictions. Some of the trademarks owned by the Complainant are as follows:

<u>Trademark</u>	<u>Jurisdiction</u>	<u>Reg. No.</u>	<u>Class</u>	<u>Registration Date (YYYY-MM-DD)</u>
CROWN	Australia	904713	9, 35, 36, 37, 41, 42, 43	2002-02-27
CROWN MELBOURNE	Australia	1090241	35, 39, 41, 43	2005-12-12
CROWN CASINO	Australia	590000	41	1992-11-11
CROWN CASINO	Australia	590001	42	1992-11-11
CROWN HOTEL	Australia	643131	37	1994-10-14
CROWN RESORT	Australia	643141	36	1994-10-14
CROWN	EU	007474471	35,39,41,43	2013-06-13
CROWN	China	1067901	41	1997-07-28
CROWN	China	1043729	39	1997-06-28

The disputed domain name was registered on September 25, 2006 and the Respondent acquired the disputed domain name on November 5, 2015.

The disputed domain name resolves to the website featuring multiple third-party links for hotels and other hospitality services and the website featuring a link directly referencing the Complainant and its business.

4. Parties' Contentions

A. Complainant

The disputed domain name incorporates the Complainant's CROWN trademarks in its entirety while merely adding the geographically descriptive term "perth" to such trademarks, thus

rendering the disputed domain name confusingly similar to the Complainant's CROWN trademarks.

The Respondent have no rights or legitimate interests in respect of the disputed domain name, since (1) the Respondent is not commonly known by the disputed domain name; (2) the Respondent is using the disputed domain name to redirect internet users to a website featuring links to third-party websites, some of which directly compete with Complainant's business; (3) the Respondent's website also features a link that directly references Complainant and its business; (4) The disputed domain name is being offered for sale in an amount that far exceeds the Respondent's out-of-pocket expenses in registering the disputed domain name.

The disputed domain name has been registered and is being used in bad faith, since at the time of acquisition of the disputed domain name, the Respondent knew, or at least should have known, of the existence of the Complainant's trademarks and that the acquisition of a domain name containing well-known trademarks constitutes bad faith per se.

Therefore, the disputed domain name must be transferred to the Complainant under the Policy.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

5. Findings

The Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

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

A) Identical / Confusingly Similar

The Complainant is the owner of various trademarks in multiple jurisdictions and the distinctive portion of the Complainant's trademarks is "CROWN."

When comparing the disputed domain name with the Complainant's CROWN trademarks, only the second-level portion of the disputed domain name and the distinctive portion of the Complainant's trademarks must be taken into account.

In this regard, the disputed domain name incorporates the word "CROWN", the distinctive portion of the Complainant's CROWN trademarks in its entirety and adds the word "perth" which is merely a geographically descriptive term or a place name. However, simple addition of such geographical term or place name does not sufficiently differentiate the disputed domain name from the Complainant's CROWN trademarks.

Moreover, in light of the fact that the Complainant operates as Crown Perth on the eastern banks of the Swan River, which is located in close proximity to the Perth CBD, the Respondent's use of the geographically descriptive term "perth" in conjunction with the Complainant's CROWN

trademarks only reinforces the confusing similarity between the disputed domain name and the Complainant's CROWN trademarks.

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's CROWN trademarks, and that the Complainant has satisfied the first element of the Policy.

B) Rights and Legitimate Interest

The Policy provides, at Paragraph 4(c), for some examples without limitations of how a respondent can demonstrate a right or legitimate interest in a domain name:

- i. Before receiving any notice of the dispute, the respondent used or made demonstrable preparations to use the domain name in connection with a *bona fide* offering of goods or services; or
- ii. The respondent has been commonly known by the domain name; or
- iii. The respondent is making a legitimate noncommercial or fair use of the domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark at issue.

In this regard, there exist no evidence showing that the Complainant has licensed, authorized or permitted the use of its trademark to the Respondent, and there is no indication that the Respondent is commonly known by the disputed domain name.

The disputed domain name resolves to the website featuring multiple third-party links for hotels and other hospitality services and the website featuring a link directly referencing the Complainant and its business.

The disputed domain name is being offered for sale in an amount far exceeding the out-of-pocket expenses necessary for the registration of the domain name.

November 5, 2015, the date of the Respondent's acquisition of the disputed domain name, is significantly after the Complainant had filed for registration of the CROWN trademarks with the trademark offices of major jurisdictions and first used its CROWN trademarks since 1997.

There exists no evidence to demonstrate the Respondent's intent to use or to make demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services.

Based on the Respondent's default and on the *prima facie* evidence in the Complaint, the Panel finds that the above circumstances provided for under Paragraph 4(c) of the Policy are not present in this particular case.

Consequently, the Panel is satisfied that the Respondent has no rights or legitimate interests in the disputed domain name, and the Complainant has proved the second element of the Policy.

C) Bad Faith

The Policy states, at Paragraph 4(b), that the following circumstances in particular, but without limitation, shall be evidence of registration and use of a domain name in 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 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 documented out-of-pocket costs directly related to the domain name; or
- ii. The respondent 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 online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.

The Panel has the view that the following facts and considerations must be taken into account in finding the intent of the Respondent when registering the disputed domain name:

The disputed domain name does not reflect or correspond to the Respondent's own name.

The date of the Respondent's acquisition of the disputed domain name, November 5, 2015, is significantly after the Complainant had filed for registration of the CROWN trademarks with the trademark offices of major jurisdictions and first used its CROWN trademarks since 1997.

The disputed domain name resolves to the website featuring multiple third-party links for hotels and other hospitality services and the website featuring a link directly referencing the Complainant and its business.

Internet searches for "crown perth" using various search engines show multiple links referencing the Complainant and its business.

The disputed domain name is being offered for sale in an amount far exceeding the out-of-pocket expenses necessary for the registration of the domain name.

The Complainant has been operating one of the largest casinos, restaurants, resort and entertainment complex in Australia using its CROWN trademarks.

In light of the foregoing facts and considerations, it is fairly reasonable to infer that the Respondent, well aware of the existence of the Complainant's CROWN trademarks, has intentionally attempted to attract, for commercial gain, internet users to its website, by creating a likelihood of confusion with the Complainant's CROWN trademarks as to the source, sponsorship, affiliation, or endorsement of its website, and further that the Respondent has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to the Complainant who is the owner of the trademarks for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name.

Accordingly, the Panel finds that the Complainant has proved that the disputed domain name was registered and is being used in bad faith, satisfying the third element of the Policy.

6. Decision

For the foregoing reasons, in accordance with the paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <crownpertth.com> be transferred to the Complainant.

Do, Doo-Hyung
Sole Panelist

Date: April 25, 2018