

**CANADIAN INTERNET REGISTRATION AUTHORITY
DOMAIN NAME DISPUTE RESOLUTION POLICY**

DECISION

Domain Name: fraser.ca
Complainant: William Ko
Registrant: Warren Glenn
Registrar: DomainsAtCost Corp.
Service Provider: British Columbia International Commercial Arbitration Centre
Panelist: Eric Macramalla

A. THE PARTIES

1. The Complainant is William Ko (the “Complainant”) located in Burnaby, British Columbia.
2. The Registrant is Warren Glenn (the “Registrant”) located in Toronto, Ontario.

B. DISPUTED DOMAIN NAME & REGISTRAR

3. The disputed domain name is fraser.ca (the “Domain Name”).

C. PROCEDURAL HISTORY

4. This is a dispute resolution proceeding initiated pursuant to the *CIRA Domain Name Dispute Resolution Policy* (the “Policy”) and the *CIRA Policies, Rules, and Procedures - CIRA Domain Name Dispute Resolution Rules* (the “Rules”). By registration of the Domain Name with the Registrar, the Registrant agreed to the resolution of this dispute pursuant to the Policy and the Rules.
5. The Complainant filed its complaint (the “Complaint”) on May 1, 2013. The Date of Commencement of the proceeding was May 2, 2013.
6. The Registrant was provided 20 days to respond to the Complaint. The Registrant did not file a response.
7. In light of the Registrant’s failure to file a response, the Complainant elected to convert the Panel from three members to a single member.
8. On May 31, 2013, the Panel was appointed. As prescribed by the Policy, the Panel has declared to the Provider that it can act impartially and independently in connection with this matter, and that there are no circumstances known to the Panel which would prevent it from so acting.

D. BASIS FOR DECIDING THE COMPLAINT

9. Since the Registrant has not submitted a response to the Complaint, the Panel shall decide the Proceeding on the basis of the Complaint. Notwithstanding the absence of a response, the proceedings shall be decided on the merits of the case.

E. CANADIAN PRESENCE REQUIREMENTS: ELIGIBILITY OF THE COMPLAINANT

10. The Complainant is Canadian and is therefore eligible to initiate these proceedings.

F. THE POSITIONS OF THE PARTIES

The Complainant's Position

11. The Complainant's submissions are as follows:

I would like to file a domain name dispute for the above domain name. I believe I am the legitimate owner of www.fraser.ca.

Background:

On April 18, 2013, through Domain Registry of Canada, I was able to pay for and register www.fraser.ca domain name.

On April 18, 2013 I received an email from the transfer department of Domain Registry of Canada requesting that I contact Domainsatcost Corp. for an Authorization Code/EPP Key.

On April 18, 2013 I wrote an email to Domainsatcost asking for the Authorization Code/EPP key.

On April 19, 2013 I received a reminder email from Domain Registry of Canada that they were still waiting for the Authorization Code/EPP Key.

On April 19, 2013 I received an email from Domainsatcost saying I did not have the email on record and is not authorized to make requests to the account.

On April 19, 2013 I wrote back to Domainsatcost to explain that the domain has expired and I was able to register this domain for my use providing to them the confirmation of charge to my credit card for the www.fraser.ca domain.

On April 19, 2013 I received another email from Domainsatcost asking me to file a CDRP through CIRA.ca.

Resolution requested:

That I am the legitimate owner of the domain www.fraser.ca and the domain should be transferred to a registrar of my choosing.

Summary:

Fraser.ca has been a dormant domain for many years as far as I can ascertain. The domain registration hosted by Domainsatcost expired on April 17, 2013. It is currently, as of the date of this letter, per WHOIS look-up on “auto-renew” grace. This I believe is incorrect as I have in good faith paid for and registered this domain in my name.

G. Discussion & Reasons

12. In accordance with paragraph 4.1 of the Policy, to succeed in this proceeding, the Complainant must prove, on a balance of probabilities, that:
 - (a) the Registrant’s 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 Registrant has registered the domain name in bad faith as described in paragraph 3.5 of the Policy;

and the Complainant must provide some evidence that:
 - (c) the Registrant has no legitimate interest in the Domain Name as described in paragraph 3.4 of the Policy.
13. The Complainant has not alleged confusion with a Mark, bad faith registration or the application of legitimate interest to this Domain Name. The Registrant has alleged that he acquired the Domain Name following its expiration and on that basis he is entitled to it.
14. It appears possible that the Domain Name was renewed by the Registrant during the grace period afforded domain name owners following expiration of a domain name. While the Complainant alleges he acquired the Domain Name, it remains in the name of the Registrant.
15. The foregoing aside, this is not a case suited for the Policy. This is not an instance of cybersquatting involving the misappropriation of trade-mark rights. The Complainant has not relied on any trade-mark rights in the domain name, nor has he demonstrated that the Domain Name was registered in bad faith or that the Registrant lacks a legitimate interest. If the Registrant is dissatisfied with the manner in which any potential purchase and/or transfer of the Domain Name has

proceeded, these issues should be addressed with the relevant parties involved in the transaction.

DECISION & ORDER

16. For the reasons set out herein, the Panel has concluded that the Complaint has failed and declines to transfer the Domain Name to the Complainant.

Dated at Ottawa, Ontario, Canada, this 25th day of June, 2013.



Eric Macramalla
Sole Panelist