

ADMINISTRATIVE PANEL DECISION

BlockMetrix, LLC v. Steven Chaser
Case No. D2023-1267

1. The Parties

The Complainant is BlockMetrix, LLC, United States of America (“United States”), represented by Craft Chu PLLC, United States.

The Respondent is Steven Chaser, United States.

2. The Domain Name and Registrar

The disputed domain name <blockmetrix.org> is registered with Web Commerce Communications Limited dba WebNic.cc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 22, 2023. On March 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 23, 2023, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (REDACTED FOR PRIVACY, Whoisprotection.cc) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 27, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on March 31, 2023.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for 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 April 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 27, 2023.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on May 15, 2023. The Panel finds that it was properly constituted. 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

The Complainant is a limited liability company established under the laws of the State of Texas on May 20, 2021, and headquartered in Dallas, Texas. The Complainant is in the business of providing cryptocurrency mining services, as described on its website at “www.blockmetrix.com” (the “Complainant’s Website”). This website has been in operation since May 18, 2021, as detailed in the Declaration of the Complainant’s Vice President of Operations (the “Declaration”). The Complainant’s website advertises Bitcoin mining and adjacent services under the mark BLOCKMETRIX. According to the Complainant, these services have produced revenues of some USD 8 million since May 2021.

The Declaration attaches screenshots showing that the Complainant’s website has used the same BLOCKMETRIX name and design logo since the company launched in May 2021. The Complainant claims BLOCKMETRIX as a common law mark, which the Complainant has expended approximately USD 150,000 to promote online and in print and video advertising. The record attaches evidence of substantial local and national publicity surrounding its launch in 2021 and investment rounds in 2021, 2022, and 2023, attracting more than 5500 unique visitors to its website and more than USD 50 million in investment.

The Registrar reports that the disputed domain name was created on June 22, 2022, and transferred to the current Registrar on December 18, 2022, registered in the name of a domain privacy service. After receiving the Center’s request for verification of the registrant details, the Registrar identified the underlying registrant as the Respondent Steven Chaser, listing no organization and showing a postal address in the State of Arizona, United States, with a Gmail email address.

The disputed domain name resolves to a website (the “Respondent’s Website”) headed “BlockMetrix” with the tagline, “A Way to Efficiently Invest Crypto”. The home page states that “Block Metrix is a digital asset technology company that mines cryptocurrencies [...]” and offers to create accounts that allow users to include Bitcoin in their portfolios without directly holding those assets. The website collects personal and financial details from users to register for several different kinds of accounts. It is not known whether site visitors are able to transact business with the Respondent or if the website functions only as part of a phishing scheme to gather such information that could be used to defraud individuals.

The Respondent’s Website does not accurately identify a legal entity that operates the website. Two addresses are displayed for “Block Metrix”. One is actually the Complainant’s former address in Dallas, Texas, and the other is the address of an unrelated third party. The Panel notes that the FAQs on the website refer to the incorporation of “Block Metrix” in 2010 and indicate that Block Metrix “became a public company” on March 9, 2011. However, there is no record of such an entity respectively in the relevant online databases of the Texas Comptroller of Public Accounts or the United States Securities and Exchange Commission (SEC). The home page of the Respondent’s Website displays the SEC logo with a button labelled “Check Company Certificate”. This links to the page in the SEC’s online EDGAR database with the records of the Complainant’s notices of exempt securities offerings. The “About Us” page of the Respondent’s Website features an embedded video of an interview with the Complainant’s co-founder. Thus, the Respondent’s Website affirmatively gives the impression that it is associated with the Complainant. The Complainant cites instances of actual consumer confusion as to source or affiliation.

5. Parties’ Contentions

A. Complainant

The Complainant asserts that the disputed domain name is “identical and confusingly similar” to its common law trademark BLOCKMETRIX.

The Complainant contends that the Respondent has neither permission to use this mark nor other rights or legitimate interests in the disputed domain name, which it has used only to impersonate the Complainant for commercial gain and illegal activity.

The Complainant argues that this activity also reflects bad faith in the registration and use of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest a respondent of a domain name, a complainant must demonstrate each of the following: (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and (ii) the respondent has no rights or legitimate interests in respect of the domain name; and (iii) the domain name has been registered and is being used in bad faith. Under paragraph 15(a) of the Rules, "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

A. Identical or Confusingly Similar

The first element of a UDRP complaint "functions primarily as a standing requirement" and entails "a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name". WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant is a relatively new business and does not have a registered trademark. However, complainants may show that an unregistered mark has acquired distinctiveness (secondary meaning) as an identifier that consumers associate with the complainant's goods or services, based on factors such as the duration and nature of use of the mark, the amount of sales under the mark, the nature and extent of advertising using the mark, the degree of actual public (e.g., consumer, industry, media) recognition, and consumer surveys. See [WIPO Overview 3.0](#), section 1.3. The following observation in the [WIPO Overview 3.0](#) is especially pertinent to this proceeding:

"Particularly with regard to brands acquiring relatively rapid recognition due to a significant Internet presence, panels have also been considering factors such as the type and scope of market activities and the nature of the complainant's goods and/or services."

The record shows that the Complainant's "coined" mark, used chiefly for an Internet-based service, is distinctive, well-advertised, and associated with a successful start-up that attracted media attention and substantial investment in a relatively new and much-commented niche market for Bitcoin mining, from 2021 onward. The Panel considers that the Complainant's claims for acquired distinctiveness and rapid recognition are well founded and accordingly finds that BLOCKMETRIX is an unregistered service mark in which the Complainant has rights for Policy purposes.

The disputed domain name is identical to the Complainant's common law mark. As usual, the addition of the Top-Level Domain ".org" may be disregarded as a standard registration requirement (see *id.* section 1.11.1).

The Panel concludes that the Complainant has established the first element of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy gives non-exclusive examples of instances in which a respondent may establish rights or legitimate interests in a domain name, by demonstrating any of the following:

- (i) before any notice to it of the dispute, the 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; or
- (ii) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; 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 or service mark at issue.

Because a respondent in a UDRP proceeding is in the best position to assert rights or legitimate interests in a domain name, it is well established that after a complainant makes a *prima facie* case, the burden of production on this element shifts to the respondent to come forward with relevant evidence of its rights or legitimate interests in the domain name. See [WIPO Overview 3.0](#), section 2.1.

The Complainant has demonstrated trademark rights and observed that the Respondent does not appear to be genuinely known by a corresponding name but has used the disputed domain name only to give a false impression of association with the Complainant. This establishes a *prima facie* case, and the Respondent has not come forward with evidence of rights or legitimate interests in the disputed domain name. The Panel finds, therefore, that the Respondent has failed to meet its burden of production and concludes that the Complainant prevails on the second element of the Policy.

C. Registered and Used in Bad Faith

The Policy, paragraph 4(b), furnishes a non-exhaustive list of circumstances that "shall be evidence of the registration and use of a domain name in bad faith", including the following:

"(iv) by using the domain name, you [respondent] have intentionally attempted to attract, for commercial gain, Internet users to your [respondent's] web site or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your [respondent's] website or location or of a product or service on your website or location."

The Respondent was clearly aware of the Complainant and its distinctive mark and attempted to mislead consumers from the outset. The Respondent attempted to create confusion both with the disputed domain name itself (identical to the common law mark) and with the content of the Respondent's Website, which displayed the Complainant's former address and the Complainant's video and linked to the Complainant's SEC notices.

This accords with the example of bad faith cited in the Policy, paragraph 4(b)(iv), assuming that the Respondent's Website was established merely for "commercial gain". There is much about the Respondent's Website that is demonstrably false, however, and if the phishing for personal and financial information was meant to further criminal fraud, such illicit conduct also must be considered bad faith for Policy purposes (see [WIPO Overview 3.0](#), section 3.4). The Respondent has not come forward to offer an alternative explanation.

The Panel finds bad faith in the registration and use of the disputed domain name on this record and concludes that the Complainant has established the third element of the Policy.

7. Decision

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

/W. Scott Blackmer/

W. Scott Blackmer

Sole Panelist

Date: May 29, 2023