

ADMINISTRATIVE PANEL DECISION

**Boskalis Offshore Marine Services B.V. and Koninklijke Boskalis B.V. v.
Deshun Mumford, Boskalis Offshore Marine Services
Case No. D2024-3723**

1. The Parties

The Complainants are Boskalis Offshore Marine Services B.V. and Koninklijke Boskalis B.V., Netherlands (Kingdom of the) (the “Netherlands”), represented by AKD N.V., Netherlands.

The Respondent is Deshun Mumford, Boskalis Offshore Marine Services, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <bomservicebv.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 13, 2024. On September 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 13, 2024, 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 (Namecheap Inc. And Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainants on September 17, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on September 18, 2024.

The Center verified that the Complaint together with the amended 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 September 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 9, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 11, 2024.

The Center appointed Steven A. Maier as the sole panelist in this matter on October 16, 2024. 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 two named Complainants are companies registered in the Netherlands. The Complainant Koninklijke Boskalis B.V. is the parent company of the Complainant Boskalis Offshore Marine Services B.V. The Panel is satisfied that the Complainants have a specific common grievance against the Respondent and that it would be equitable and procedurally efficient for the proceedings to be consolidated (see section 4.11.1 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Complainants are a global dredging and offshore contractor and marine services provider.

The Complainants are the owner of:

- Benelux trademark registration number 1510661 for the word mark BOMS, registered on September 12, 2024, in International Classes 37, 39, and 42; and
- Benelux trademark registration number 1510662 for the word mark BOSKALIS OFFSHORE MARINE SERVICES, registered on September 12, 2024, in International Classes 37, 39, and 42.

The disputed domain name was registered on August 14, 2024.

The disputed domain name has resolved to a website purporting to be that of "Boskalis Offshore Marine Services B.V." and offering petroleum storage, shipping, logistics and related services. It includes information which claims it is a Netherlands company with over 100 years' experience in these fields and details of its corporate structure. It also includes a postal address, which is the same as that of the Complainants.

5. Parties' Contentions

A. Complainants

The Complainants state that they employ over 10,000 individuals in 90 countries and operate one of the world's largest dredging fleets.

The Complainants contend that the names "Boskalis Offshore Marine Services B.V.", "BOMS", and "BOMS Service" are all protected as trade names under the laws of the Netherlands, and also by way of common law trademark rights, having used all of these names extensively in the course of trade since 2013. The Complainants exhibit (albeit limited) evidence of their use of the acronym "BOMS" to refer to Boskalis Offshore Marine Services B.V. They assert that each of the above names has become a distinctive identifier which consumers associate with their services.

The Complainants submit that the Respondent's targeting of their trademarks, for the purpose of a website impersonating their own website, supports their assertion that their trademarks have achieved significance as a source identifier (see section 1.3 of [WIPO Overview 3.0](#)).

The Complainants contend that the disputed domain name is confusingly similar to their registered trademark BOMS (it being irrelevant for the purposes of the first element under the Policy that this trademark was registered after the date of registration of the disputed domain name). They submit that it is also confusingly similar to their company name and the "BOMS Service" name in which they claim unregistered trademark rights. The Complainants contend that the term "services" in the disputed domain name is in any event descriptive, and that the addition "bv" is commonly used to designate a Netherlands limited company.

The Complainants submit that the Respondent has no rights or legitimate interests in respect of the disputed domain name. They state that they have no connection or affiliation with the Respondent and have never permitted it to use the Complainants' trademarks. They submit that the Respondent is using the disputed domain name for the purpose of a fraudulent website, which impersonates their company and has been used to send out false invoices to their business partners, which cannot give rise to rights or legitimate interests on its part. The Complainants exhibit an invoice headed "Boskalis Offshore Marine Services B.V." for USD 95,999, addressed to a third party, in respect of "Tank Services".

The Complainants contend that the disputed domain name was registered and is being used in bad faith. They state that, in view of the Respondent's use of the disputed domain name, the Respondent was obviously aware of the Complainants and their trademarks when it registered the disputed domain name. They contend that the Respondent's website fraudulently impersonates their own website, by making prominent use of their company name and trademarks, and copying content from their genuine website, including their company profile and history. The Complainants refer to the Respondent issuing false invoices and assert that, by using the disputed domain name, it has intentionally attracted Internet users to its website by causing confusion with the Complainants and their trademarks.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

In order to succeed in the Complaint, the Complainants are required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

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

A. Identical or Confusingly Similar

The Complainants have established that they are the owner of registered trademark rights for the mark BOMS. The disputed domain name incorporates that trademark in full, together with the word "service" (when reading the "s" apart from the BOMS trademark), and the suffix "bv", which the Panel accepts is used to designate a Netherlands limited company, and which additions do not prevent the Complainants' trademark from being recognizable within the disputed domain name. It is irrelevant to the test under the first element of the Policy that the Complainants' trademark was registered after the date of registration of the disputed domain name, and the Panel finds therefore that the disputed domain name is confusingly similar to a trademark in which the Complainants have rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainants' submissions set out above give rise to a prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. Moreover, the Panel finds on the evidence presented by the Complainants that the Respondent has used the disputed domain name for the purpose of a website which impersonates the Complainants' company and their website and has been used as an instrument of fraud. Such actions cannot give rise to rights or legitimate interests on the part of the Respondent, and the Panel finds therefore that the Respondent has no rights or legitimate interests in respect of the disputed domain name. While the Respondent was disclosed as "Deshun Mumford, Boskalis Offshore Marine Services", it is clear the Respondent has further impersonated the Complainants when registering the disputed domain name in an attempt to legitimize the registration as being in connection with the reported Respondent Organization, "Boskalis Offshore Marine Services", reinforcing the general finding of the Panel that the Respondent has registered and used the disputed domain name to impersonate the Complainants.

C. Registered and Used in Bad Faith

Based on the evidence submitted by the Complainants, which the Respondent has not challenged, the Panel finds that the Respondent has used the disputed domain name to mislead Internet users into visiting its website in the mistaken belief that it must be owned or operated by, or otherwise legitimately affiliated with, the Complainants. Moreover, the Respondent's website constitutes an impersonation of the Complainants and appears to have been used in support of a fraudulent email scheme. The Panel finds in these circumstances that the Respondent registered the disputed domain name with the Complainants' trademark and business in mind, and that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainants' trademarks as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

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 <bomservicebv.com> be transferred to the Complainants.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: October 29, 2024