

ADMINISTRATIVE PANEL DECISION

Bitcoin Association for BSV v. Domain Manager, currency evolution
Case No. D2022-2672

1. The Parties

The Complainant is Bitcoin Association for BSV, Switzerland, represented by Patpol Legal Pirog i wspólnicy sp.k., Poland.

The Respondent is Domain Manager, currency evolution¹, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <bsvblockchain.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 22, 2022. On July 25, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 25, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on July 26, 2022, 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 July 29, 2022.

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 August 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 21, 2022. On August 2, 2022, the Respondent requested an extension of time for filing the Response. In accordance with the Rules, paragraph 5(b), the Respondent

¹ At the time of the filing of the Complaint, the Respondent’s identity was masked by a privacy service.

was granted an automatic four calendar day extension for the Response, and the due date for the Response was updated to August 25, 2022. The Response was filed with the Center on August 17, 2022.

On August 26, 2022, the Complainant submitted an unsolicited supplemental filing. On August 27, 2022, the Respondent submitted an unsolicited supplemental filing. On August 29, 2022, the Complainant submitted a second unsolicited supplemental filing.

The Center appointed Steven A. Maier as the sole panelist in this matter on August 29, 2022. 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. The Parties' Supplemental Filings

Save in circumstances where additional information or evidence is required by a panel, supplemental filings are generally discouraged in cases under the UDRP in order to facilitate the disposition of proceedings with due expedition. That objective must however be weighed against the requirement to provide each party with a fair opportunity to present its case. In the present proceeding, both the Complainant and the Respondent have submitted unsolicited supplemental filings. Having reviewed those filings, the Panel is satisfied that the Complainant's first supplemental filing and the Respondent's supplemental filing both address matters of relevance arising from the other party's submissions which could not reasonably have been anticipated at an earlier stage. The Panel therefore admits those supplemental filings. The same criteria do not however apply to the Complainant's second supplemental filing, which is essentially repetitive of previous submissions, and the Panel therefore declines to admit that filing.

5. Factual Background

The Complainant is a legal entity registered in Switzerland with a "statutory date" of September 9, 2019. According to its official filing: "The association promotes and supports the research, education, technology development, further training and networking for companies and developers worldwide working with the original Bitcoin blockchain and the original Bitcoin protocol as defined by Bitcoin Satoshi Vision or Bitcoin SV ("BSV") ..."

The Complainant is the owner of various trademark registrations comprising or incorporating the mark BSV. Those registrations include, for example:

- European Union Trade Mark number 018612971 for the word mark BSV, registered on March 25, 2022 with a filing date of December 2, 2021, for goods and services in various International Classes, including "Blockchain as a Service [BaaS]" and "Data authentication via blockchain" in International Class 42.
- European Union Trade Mark number 018612973 for a figurative mark BSV BLOCKCHAIN (the term "BSV" appearing against a square background of contrasting colour), registered on March 25, 2022 with a filing date of December 2, 2021, for goods and services in various International Classes.

According to the evidence available to the Panel, the disputed domain name was first registered on November 7 or November 9, 2018. It appears to have been "dropped" on or about December 20, 2019 and then re-registered by the Respondent on either February 2 or February 4, 2020. The Respondent submits that it was also the original registrant of the disputed domain name, although this is disputed by the Complainant.

The disputed domain name has resolved to a website at “www.bitcoinnetwork.com”. The website is titled “BITCOIN NETWORK - YOUR COMPREHENSIVE RESOURCE TO BITCOIN”. It includes extensive information concerning Bitcoin and states: “Our exclusive aim is to provide a trustworthy global education portal packed with relevant rich-media to help consumers, businesses, institutional investors, academics, analysts, and the media worldwide learn more about the Bitcoin Network. BitcoinNetwork.com is not an investment advisory service and does not provide financial products or consulting. Our complimentary portal exists for educational purposes only and should not be construed as investment or legal advice.”

The website includes a number external links labelled “CLAIM YOUR FREE BITCOIN! START WITH JUST \$100” and “BUY BITCOIN NOW ON A REGULATED EXCHANGE”. These links resolve to a website at “www.gemini.com”, which provides cryptocurrency trading and related services.

6. Parties’ Contentions

A. The Complaint

The Complainant states that it is a not-for-profit, global association which supports Bitcoin SV, using the ticker symbol “BSV”, being the original version of Bitcoin. It describes the nature of Bitcoin, which was invented in 2009 by a person using the pseudonym Satoshi Nakamoto. The Complainant describes the so-called “hard fork” in the development of Bitcoin in 2017 when the currency split into two parallel blockchains known as Bitcoin and Bitcoin Cash. It states that a further hard fork of Bitcoin Cash occurred on November 15, 2018, to produce Bitcoin Cash and Bitcoin SV. It submits that Bitcoin SV is the closest version to the original Bitcoin protocol devised by Satoshi Nakamoto and is currently the sixth-largest digital asset by market capitalization.

The Complainant exhibits several pages of Google search results, which it submits are the product of a search against the term “bsv blockchain”, time limited to the period between September 1, 2017 and January 31, 2020. The pages include over a dozen results which appear to be dated before November 7, 2018 (being the earliest indicated registration date of the disputed domain name). The Complainant does not, however, exhibit any of the actual web pages to which these search results apparently refer. On the footing that the Respondent acquired the disputed domain name in February 2020, the Complainant submits that all the online references in question existed prior to the Respondent’s registration of the disputed domain name.

The Complainant submits that it has itself used the terms “BSV” and “BSV blockchain” for “a couple of years”. It refers to its own websites at “www.bitcoinassociation.net”, “www.bitcoinsv.com” and “www.bsvblockchain.org”. It refers in particular to a publication dated December 17, 2018 by its Founding President, Jimmy Nguyen, which it says can be found on its website at “www.bitcoinassociation.net”, and to YouTube videos dated 2019 which both highlight the differences between Bitcoin SV and other versions of Bitcoin and also refer to “BSV blockchain”.

The Complainant also exhibits media coverage dated between February 2019 and January 2020 which mentions the terms “BSV” and “BSV blockchain”. For example, a website named CoinPayments Blog includes an article dated February 19, 2019, which refers to “Bitcoin SV (BSV)” and to “the BSV blockchain”. An article on “www.coingeek.com” dated July 25, 2019 also refers to these terms.

The Complainant submits that, on about January 16, 2020, BSV announced its “Genesis” upgrade, which was aimed at restoring the original Bitcoin protocol as envisaged by Satoshi Nakamoto. It provides evidence that the upgrade was publicized in various media prior to its implementation on February 4, 2020, including for example a press release which appeared on “www.coingeek.com” dated January 16, 2020. The Complainant provides a GoDaddy search result stating that the disputed domain name was registered on February 2, 2020, which it points out was two days before the Genesis upgrade was implemented.

The Complainant refers to the website at “www.bitcoinnetwork.com” to which the disputed domain name resolves. It submits that the website promotes a version of Bitcoin named Bitcoin Core, or BTC, which is competitive with Bitcoin SV. The Complainant submits that the Respondent is therefore using the disputed domain name, which incorporates the Complainant’s trademarks, to promote a competing digital asset, and also to link to the website at “www.gemini.com”, where users are encouraged to buy BTC.

The Complainant submits that the disputed domain name is confusingly similar to its BSV and BSV BLOCKCHAIN trademarks. In connection with the first of these marks, it contends that the distinctive element of the disputed domain name is the term “BSV”, since the term “blockchain” is merely descriptive of the virtual currency software service for which the Complainant’s trademarks are registered. With regard to its figurative trademark BSV BLOCKCHAIN, the Complainant submits that the disputed domain name incorporates all of the word elements of that trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has never authorized the Respondent to register the disputed domain name and that the Respondent is using the disputed domain name, which incorporates the Complainant’s trademarks, to redirect Internet users to its website, including links to the Gemini website, where they are encouraged to buy Bitcoin Core (BTC) which competes with Bitcoin SV (BSV). The Complainant submits that, despite the reference within the disputed domain name to BSV, there is no reference to that Bitcoin version on the Respondent’s website, which is used instead to familiarize visitors with the BTC product. The Complainant contends that there is therefore no noncommercial, informative use of the disputed domain name and that the Respondent is using the disputed domain name only to divert traffic to a competing website for commercial gain. The Complainant states in this regard that a large number of the supposedly educational panels included on the Respondent’s website are in fact non-functioning.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. It denies that the Respondent could have registered the disputed domain name, incorporating the term “BSV”, purely by coincidence and without being aware of the BSV and BSV BLOCKCHAIN marks. The Complainant observes, in particular, that the Respondent has not advanced any reason of its own for its adoption of the terms “BSV” and “BSV blockchain” in connection with the disputed domain name.

The Complainant submits that, by using the disputed domain name, the Respondent is attempting to confuse Internet users into believing that its website is approved or authorized by the Complainant, so as to reach a broader group of recipients and to mislead them into believing there is some connection between BTC and BSV. The Complainant contends that the Respondent’s said activities disrupt its business both by redirecting Internet users to a competing product and by making the disputed domain name unavailable to the Complainant, despite it being “the most intuitive domain name for economic activity run by the Complainant.”

The Complainant acknowledges that its trademarks were registered after the disputed domain name, but states that bad faith should still be found in circumstances where the Respondent had an intention unfairly to capitalize on the Complainant’s nascent (*i.e.* as yet unregistered) trademark rights: see *e.g.* section 3.8.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). The Complainant points in this regard to the “loud release” of publicity about the Genesis upgrade to BSV which was scheduled for February 2020. The Complainant also points to media speculation that BTC was likely to suffer as a result of this upgrade, which it claims was a further potential reason for the Respondent’s registration of the disputed domain name.

The Complainant submits that the Respondent’s use of a privacy service in connection with the disputed domain name may be a further indication of bad faith on its part.

The Complainant requests the transfer of the disputed domain name.

B. The Response

The Respondent submits that it was the first registrant of the disputed domain name, on November 7, 2018, and that the Complainant is wrong to submit that it registered it only on February 2, 2020. The Respondent exhibits an email from GoDaddy stating that the disputed domain name was registered on November 7, 2018 and quoting an official receipt number and the last four digits of a customer number. The email also confirms that no privacy plan was purchased in connection with the relevant registration, although privacy was automatically implemented on May 25, 2018 as a consequence of the General Data Protection Regulation (“GDPR”).

The Respondent states that it carried out “numerous good will searches” against the term “bsv blockchain” in November 2018, upon renewal of the disputed domain name in 2020 and again upon receipt of the Complaint in the present proceeding. The Respondent exhibits (undated) results from the United States Patent and Trademark Office “TESS” database, from a website at “opencorporates.com” and from the US Chamber of Commerce search facility, none of which appear to return any results against the terms “bsv blockchain” or “bsvblockchain”.

The Respondent states that it fully acknowledges the recent formation of the Complainant entity, its recently acquired trademark registrations, and that the fact that the disputed domain name incorporates the term “bsv blockchain”. It submits, however, that having “legitimately and legally fulfilled all duties as the original domain name registrant, through pre-registration phase to check for *official clearance* in advance for any registered or unregistered mark...” it is fully and legally entitled to retain the disputed domain name.

The Respondent states that it has never been to Switzerland and had never heard of the Complainant, which appears only to have existed since September 2019. The Respondent states that its registration of the disputed domain name predates any and all activity, whether public or private, by any organization attempting to commercialize the phrase “bsv blockchain”, as well as any unregistered trademark rights or commercial goodwill attaching to that phrase. The Respondent contends that it is therefore “an impossibility” that the Complainant can have any rights in respect of the disputed domain name.

The Respondent contends that it was the Complainant’s choice to “organize and market around a generic, non-commercialized unregistered industry root *key word* phrase” without registering the corresponding exact-match “.com” domain name.

The Respondent refers to the publication dated December 17, 2018 by Jimmy Nguyen, which the Complainant says can be found on its website at “www.bitcoinassociation.net”. The Respondent submits that the domain name <bitcoinassociation.net> was not even registered until at least January 2019, and claims that the Complainant’s submission is therefore either an error or a deliberate deception. In a similar vein, the Respondent claims that the Complainant manipulated a Twitter account to suggest that “BSVBlockchain.org” had joined the platform in 2009, whereas its first Tweet was in fact dated August 2021.

While stating that “Respondent informs the Administrative Panel that this is not a personal attack on Complainant”, the Respondent accuses the Complainant of deceptive conduct. It also submits that individuals connected (or said to be connected) with the Complainant have offered what the Respondent calls “cash bounties” online for the identification of certain individuals involved in the cryptocurrency sector. It accuses the Complainant of bullying and harassment and states that it is genuinely concerned in the circumstances about the Complainant’s “repeated requests” to know the full identity and exact location of the Respondent.

The Respondent submits that, in order to establish unregistered trademark rights, the Complainant must demonstrate that its mark “has become a distinctive identifier which consumers associate with the complainant’s goods and/or services” (section 1.3 of [WIPO Overview 3.0](#)). The Respondent submits that the Complainant is unable to do so, as it cannot provide any evidence of matters such as sales, revenues, product reviews, logistics, customer databases or any other indicators of business activity on its part. It

contends that the Complainant has not therefore established any “secondary meaning” applicable to the term “bsv blockchain” that would enable it to claim exclusivity in that term.

The Respondent states that the Complainant’s “official” social media account at “@bsvblockchain” has 1,528 followers worldwide and that customers could not associate the term “bsv blockchain” with a newly-formed company in Switzerland. The Respondent contends that the term relates to a decentralized computing network and open-source software which is free for anyone to use. It states that it registered the disputed domain name many years before the Complainant, as a not-for-profit organization, decided to “promote” and “control” the phrase “bsv blockchain”.

The Respondent submits that it has rights or legitimate interests in respect of the disputed domain name. It states that, as the original and legitimate domain name registrant, it has the full and exclusive right freely to develop a website on the disputed domain name whether a blog, news outlet, portal, comparison site or whatever the legal content of that website.

The Respondent states that it has been researching, experimenting with, writing about and testing blockchain technology for nearly a decade and has invested thousand of hours researching the fundamental technologies which enable Bitcoin, BTC, the Bitcoin Network, and blockchain technology to function. It states that it also provides educational resources in this regard, has completed numerous university e-courses in the field and has been invited to consider a role at a local university.

The Respondent denies that it is a competitor of the Complainant, since the Respondent has no products or services to sell to the public, has never engaged in cryptocurrency development, mined cryptocurrency or operated any media company. It states that it has no ability in any way to control or manipulate Bitcoin, BTC or any cryptocurrency or blockchain asset. It further denies that BTC is competitive to BSV, which it says is a native digital asset based on free and open source software which the Complainant now supports. The Respondent adds that the Complainant has publicly stated on three occasions that Bitcoin SV does not compete with Bitcoin, BTC or the Bitcoin Network. The Respondent exhibits, for example, a Tweet by an executive of the Complainant dated July 19, 2020, stating: “Ironically BSV does not compete with BTC as BSV has a global monopoly on micropayments and immutable data storage on public block chain at Enterprise scale.” The Respondent also exhibits a Tweet by the same individual, dated January 12, 2022, stating: “BSV is an open system... he has assigned the rights to the base platform to the Bitcoin Association and there is an open source license for using it with the world. Nobody can sue you.”

The Respondent makes further allegations of fraudulent conduct, bullying and intimidation against the Complainant and individuals connected (or said to be connected) with it and refers to media coverage in that regard. It contends that the Complainant intends in the present proceeding to mislead the Panel into finding in its favour based on a lack of understanding of cryptocurrency and blockchain technology coupled with “legalese” from the Complainant’s counsel.

The Respondent denies that the disputed domain name was registered or has been used in bad faith. It states that it has maintained the same user account with the Registrar for over a decade, has not purchased privacy protection and has had the same user name, account name, customer number and an active email address throughout. It denies again that it is a competitor of the Complainant or that it has any vendetta against any party and maintains that it simply believes that the disputed domain name is its exclusive property. It refers again to the “numerous *good faith* measures and *best practices*” adopted in connection with the registration of the disputed domain name.

The Respondent states that this is the first case of a member of an open source community claiming to have exclusive rights to a generic term related to a public infrastructure database and that the Complainant’s conduct is concerning. The Respondent submits that good-faith registrants of relevant domain names must be protected to ensure that they can participate in educational content delivery without fear of bullying, harassment or legal action.

The Respondent submits that it has never sent emails from the disputed domain name, nor has it used it in connection with phishing, theft, malware or any similar activity. It states that it registered the disputed domain name “with the goal of online website development” and not as a “blocking” registration as the Complainant claims. The Respondent adds that it has never listed the disputed domain name for sale, nor indeed has it sold any of its domain names for a period of nine years. It states that it is a long-term investor in domain names and has rejected various offers received via the GoDaddy brokerage team on the basis that it has “a unique and long relationship and love for dotcom domain names, educational content, development history, and ultimately, the notion that some dotcom domain names are simply considered invaluable...”

The Respondent reiterates that, given the date of the Complainant’s trademark registrations, it could not have registered the disputed domain name in bad faith because it could not have contemplated the Complainant’s non-existent rights at the date of such registration.

Concerning the redirection of the disputed domain name, the Respondent submits that such practice is commonplace and involves nothing untoward. It states that the redirection in this particular case is a temporary measure aimed at avoiding both “pay-per-click” initiatives and registrar landing pages, both of which are liable to provide content over which the registrant has no control. The Respondent adds that the redirect itself cannot be considered confusing as there is no reference whatsoever to “bsv blockchain” on the relevant website. It also submits that its website received zero traffic in 2018 and 2019 and does not therefore benefit from the registration of the disputed domain name as the Complainant claims.

The Respondent requests a finding of attempted Reverse Domain Name Hijacking (“RDNH”) against the Complainant on the basis that the Complainant knew or ought to have known it could not succeed in the claim, given the Complainant’s lack of trademark rights and the absence of bad faith on the part of the Respondent. The Respondent also relies on other matters, including the alleged provision of false and misleading evidence by the Complainant, and the Complainant allegedly filing the Complaint only after an unsuccessful attempt to acquire the disputed domain name from the Respondent.

C. Complainant’s Supplemental Filing

The Complainant disputes the Respondent’s submission that it registered the disputed domain name on November 7, 2018 as opposed to February 2, 2020. Concerning the GoDaddy email exhibited by the Respondent, the Complainant contends that, while GoDaddy confirmed processing a registration of the disputed domain name on November 7, 2018 under a particular customer number, there is nothing to demonstrate that the Respondent was in fact the registrant in question.

The Complainant submits evidence by way of a “WhoIS Request Domain History Checker” to the effect that the disputed domain name was first registered on November 9, 2018, was “dropped” on December 20, 2019 (the report states “Domain dropped, nameservers removed”) and was then registered again on February 4, 2020 (the report states “Domain created, nameservers added”). The Complainant submits that the Respondent has deliberately concealed the fact that the disputed domain name was not assigned to anyone in the period between December 20, 2019 and February 1, 2020.

The Complainant submits that, as set out in section 3.9 of [WIPO Overview 3.0](#): “Where the respondent provides satisfactory evidence of an unbroken chain of possession, panels typically would not treat merely ‘formal’ changes or updates to registrant contact information as a new registration.” The Complainant submits that the Respondent is unable to establish an “unbroken chain of possession” as it cannot prove that it was the original registrant of the disputed domain name in November 2018, and even if it were able to establish that fact, there would still be a period between December 2019 and February 2020 when the disputed domain name was dropped and the chain of possession was clearly interrupted.

The Complainant addresses the questions of the existence and ownership of any rights in the terms “BSV” and “BSV blockchain” prior to the formation of the Complainant entity. In this regard, the Complainant submits that the term “BSV” was coined as the result of discussions between three named individuals, two of whom are founder members and/or members of the Complainant’s executive committee, who first met in 2015. The third individual is said to be “the individual behind the Satoshi Nakamoto pseudonym” and the Complainant submits that it was the mission of these individuals to restore Bitcoin to its original vision, hence the name “BSV”, meaning “Bitcoin Satoshi Vision”. The Complainant states that while Bitcoin SV was originally created as a node implementation for Bitcoin Cash, it was released as independent node software in August 2018. The Complainant exhibits a press release from “nChain” in this regard dated August 16, 2018, and also an article from “www.cointelegraph.com” dated August 28, 2018, which refers to “Bitcoin SV – or Bitcoin Satoshi Vision” having been announced on August 16, 2018.

The Complainant submits that, in these circumstances, the indication “BSV” was already by November 7, 2018 “assigned to” the individuals who later founded the Complainant.

The Complainant denies having submitted any misleading evidence in this proceeding. With regard to the article by Jimmy Nguyen dated December 17, 2018, the Complainant states that this was originally published elsewhere before appearing on its “www.bitcoinassociation.net” website. It also denies the manipulation of any Twitter account.

The Complainant submits that the Respondent has never disclosed its true identity and that the name “currency evolution”, with a Chicago, United States address as disclosed by the Registrar, does not relate to any identifiable entity. It also notes that the Response in this proceeding is merely signed “Domain Manager”. The Complainant submits that the Respondent is seeking to hide its true identity, and that an inability to demonstrate its identity speaks against any rights or legitimate interests in the disputed domain name as well as indicating bad faith.

Concerning the Complainant’s executive’s public statement that “BSV does not compete with BTC”, the Complainant submits that this “was a PR statement, not a factual one.”

The Complainant submits that the fact that the “BSV” term relates to a public infrastructure database that anyone can access, does not mean that anyone can freely use the “BSV” name in a misleading way.

The Complainant also refers to the “clearance checks” said to have been carried out by the Respondent before registering the disputed domain name. The Complainant contends that a number of the Respondent’s exhibits in this regard are missing dates, search terms or other material and cannot therefore establish “clearance” on any particular date. The Complainant also submits that the Respondent’s claimed searches were restricted to United States websites and did not use any of the publicly accessible tools for conducting wider searches, e.g. the WIPO [Global] Brand Database. The Complainant asserts that, in any event, anyone with the Respondent’s claimed expertise in cryptocurrencies would have been aware of the use of the term BSV.

D. Respondent’s Supplemental Filing

The Respondent exhibits a further email from GoDaddy dated (by the Respondent) August 26, 2022. The email states that the disputed domain name was originally purchased using the Respondent’s credit card on November 7, 2018, but that it “ended up expiring due to an expired credit card and got released to the public for anyone to purchase but no one purchased it.” The email then states that “[y]ou were able to purchase the domain again on February 2, 2020...” The Respondent submits that this is indisputable evidence that it was the original registrant of the disputed domain name in November 2018.

In addition to advancing further allegations concerning the conduct of the Complainant and individuals connected (or said to be connected) with it, the Respondent lists a significant number of domain names comprising the term “bsvblockchain” and a variety of top level domains which are said to be available for

purchase. The Respondent questions why the Complainant has apparently ignored all of these domain names in the course of protecting its supposedly exclusive trademarks.

7. Discussion and Findings

In order to succeed in the Complaint, the Complainant is 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 Complainant has 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 Complainant has established that it is the owner of registered trademark rights in the word mark BSV and a figurative mark BSV BLOCKCHAIN. The disputed domain name combines the term “BSV” with the term “blockchain”, which does not prevent the Complainant’s mark BSV from being recognizable within it. Further, the disputed domain name is effectively identical to the textual elements of the Complainant’s figurative trademark. The Panel therefore finds that the disputed domain name is confusingly similar to both the BSV and BSV BLOCKCHAIN trademarks in which the Complainant has rights.

It is irrelevant for the purposes of paragraph 4(a)(i) of the Policy (which is effectively a requirement to establish “standing”) that the Complainant’s trademarks were registered after the date of registration of the disputed domain name. That factor may, however, be relevant to the assessments made under the second and third elements under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The Panel finds the Complainant’s trademarks BSV and BSV BLOCKCHAIN to be distinctive in nature. The first such trademark is a coined or invented term which has no apparent meaning in ordinary language. The second such trademark expressly associates the mark BSV with blockchain technology.

In the view of the Panel, the Complainant’s 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. As this is not a case in which the Respondent can credibly claim to have registered the disputed domain name as comprising only “dictionary” words, it is incumbent upon the Respondent to demonstrate some legitimate connection with the disputed domain name, whether corresponding to one of the examples provided in paragraph 4(c) of the Policy or otherwise.

The Respondent submits that it has rights or legitimate interests in respect of the disputed domain name by virtue of having registered it, having supposedly completed various searches to establish that it did not infringe any existing trademark rights. The Respondent asserts that, having so legitimately registered the disputed domain name, it was then entitled to use it for such lawful purposes as it may see fit. It submits that there is nothing untoward about its use of the disputed domain name for redirection to the website and external links referred to above.

It is well established in jurisprudence under the UDRP that there mere registration of a domain name does not of itself confer rights or legitimate interests upon the registrant, even in cases where the domain name is comprised of a dictionary word or phrase (see e.g. section 2.10.1 of [WIPO Overview 3.0](#)). In a case such as this, therefore, where the domain name includes a distinctive, non-dictionary word or phrase, the

Respondent must clearly show some legitimate connection with the disputed domain name beyond simply having registered it.

In the view of the Panel, the Respondent has failed to demonstrate any such legitimate connection with the disputed domain name. While the Respondent implies that its website is educational in nature, it expressly confirms in its submissions the Complainant's contention that nowhere on its website does it make any reference to the BSV version of Bitcoin as identified by the mark BSV. In those circumstances, the inclusion of the term "BSV" in the disputed domain name would appear to be entirely gratuitous. Furthermore, the website contains links to a third-party commercial concern.

While the Respondent argues that the terms "BSV" and "BSV blockchain" relate to a publicly-available open source resource in which no party can claim exclusive ownership, the Panel accepts the Complainant's submission that the free availability of the underlying software resource does not negate the existence of any enforceable rights in the name and mark BSV itself. Furthermore, even if the Respondent's contention were correct, the Panel would still not consider that there mere registration of the disputed domain name was sufficient to invest the Respondent with rights or legitimate interests in respect of the disputed domain name for the purposes of the Policy.

The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

A preliminary question arises in this case of whether the Complainant itself had sufficient rights in respect of the terms "BSV" and "BSV blockchain" at the material times to enable it to establish a case of bad faith against the Respondent.

As noted above, the Complainant's trademarks BSV and BSV BLOCKCHAIN were registered (and indeed filed) on dates significantly after both the first registration of the disputed domain name on or about November 7, 2018 and the second registration of the disputed domain name on or about February 2, 2020. Those trademark registrations are therefore irrelevant to any consideration of bad faith as at either of the dates of registration of the disputed domain name.

Based on the evidence submitted by the Complainant, however, the Panel finds that the term "BSV", meaning "Bitcoin Satoshi Version", was coined by individuals connected with what is now the Complainant on or before August 16, 2018 and reported in media relating to cryptocurrencies prior to the emergence of the "hard fork" dividing Bitcoin cash and Bitcoin SV in November 2018, from which date the designation "BSV" was used as the relevant trading ticker symbol. The Complainant has also provided ample evidence that the terms "BSV" and "BSV blockchain" were repeatedly used in relevant media during 2019. The Panel also finds that the use of such terms, being associated with cryptocurrency, was commercial in nature.

The Panel finds in the circumstances that unregistered rights in the terms "BSV" and "BSV blockchain" came into existence at some point between late 2018 and 2019. As observed in section 1.3 of [WIPO Overview 3.0](#): "To establish unregistered or common law trademark rights for purposes of the UDRP, the complainant must show that its mark has become a distinctive identifier which consumers associate with the complainant's goods and/or services." While the concept of "secondary meaning" (as alluded to by the Respondent) is of particular importance in cases involving "dictionary" terms, it is of lesser significance where the mark in question is itself distinctive, as in the case of the mark BSV, particularly as used in conjunction with the term "blockchain". Noting the Respondent's activity in the blockchain industry, the Panel finds that the Respondent likely knew of the developments surrounding BSV and BSV Blockchain (as well as the nascent rights arising from said terms).

As to the question of "the complainant's goods or services", the Respondent rightly points out that the Complainant did not come into existence until September 2019 and could not, therefore, have been the first owner of the unregistered rights which the Panel finds to have been created. That does not mean, however,

that such rights could not subsequently have been conveyed to the Complainant, whether by way of an express or implied assignment from their original owner. The Panel finds in this regard that the terms “BSV” and “BSV blockchain” were coined by individuals who subsequently formed the Complainant and/or authorized it to use those marks and the Panel therefore accepts, in the absence of any contradictory evidence, that the relevant unregistered rights were duly assigned to the Complainant.

The next preliminary issue to arise concerns the date of the Respondent’s registration of the disputed domain name. Based on the evidence available to the Panel, the Panel finds on the balance of probabilities that the Respondent was both the original registrant of the disputed domain name or about November 7, 2018 and the second registrant of the disputed domain name on or about February 2, 2020. However, the Panel does not find there to be “an unbroken chain of possession” as contemplated by section 3.9 of [WIPO Overview 3.0](#). That is because the disputed domain name was “dropped” between about December 20, 2019 and February 2, 2020 and was not owned by the Respondent in this period. Whether that gap in ownership occurred owing to an expired credit card or for some other reason is irrelevant, since the fact is that the Respondent has no ownership or control of the disputed domain name during that period and, as the August 2022 email from GoDaddy itself confirms, it was “released to the public for anyone to purchase” in that period. While no other party did in fact purchase the disputed domain name, and the Respondent itself re-registered it in February 2020, the Panel finds that clearly to have been a new registration and not a merely formal update of an existing registration: again as per the GoDaddy email: “[y]ou were able to purchase the domain again on February 2, 2020...”

The date of the Respondent’s registration of the disputed domain name is significant since, as is also well established in jurisprudence under the UDRP, a respondent cannot have registered a domain name in bad faith if it was unaware of the relevant trademark rights at the time of such registration. On the basis that the relevant registration date is February 2, 2020, the Panel has no hesitation in finding on the balance of probabilities that the Respondent was aware of the use of the terms “BSV” and “BSV blockchain” by the Complainant’s predecessors at that date. Not only had those terms received extensive media coverage, but on its own case the Respondent claims significant expertise in cryptocurrency and blockchain development. Furthermore, the Panel can find no plausible explanation for the combination of the terms “BSV” and “blockchain” within the disputed domain name, other than deliberately to refer to the BSV variant of Bitcoin.

The Panel also notes that, even if it had found there to be an unbroken chain of possession going back to November 2018, it would still have come to the same conclusion with regard to the knowledge of the Respondent. Not only does the November 2018 date correspond with the emergence of BSV, but there is also once again no plausible explanation for the combination of the terms “BSV” and “blockchain” in the disputed domain name.

The Panel must, however, observe that the evidence submitted by the Complainant by way of Google search results, supposedly dated between September 1, 2017 and January 31, 2020, is highly unsatisfactory. While those pages include over a dozen results which appear to be dated before November 7, 2018, they are not accompanied by the actual webpages in question. Furthermore, based on the Panel’s own review of the results in question, the dates assigned to these results are highly unreliable, including at least six results dated 2017 or 2018 which in fact relate to events or other matters occurring in 2021 or 2022. While the Panel appreciates that the misleading dates were attached by Google and not the Complainant, the Complainant should nevertheless have realized the inaccuracy of the evidence being submitted. These observations do not, however, affect the Panel’s findings concerning the announcement of Bitcoin SV in August 2018 and the use of the term “BSV” from November 2018.

While the Panel has found that unregistered rights existed in the terms “BSV” and “BSV blockchain” at the material times, it is also of the view that this is a case which falls within section 3.8.2 of [WIPO Overview 3.0](#), namely “Domain names registered in anticipation of trademark rights”. As the section states, bad faith is liable to be found where “the respondent’s intent in registering the domain name was to unfairly capitalize on the complainant’s nascent (typically as yet unregistered) trademark rights.” The Panel finds that both the emergence of BSV in November 2018 and the announcement of its Genesis upgrade project in early 2020, which correspond with the first and second registrations by the Respondent of the disputed domain name,

were events that were liable to imply future trademark applications in respect of the terms “BSV” and “BSV blockchain”.

Concerning the Respondent’s supposed trademark or business name searches against the term “bsv blockchain”, the Panel accepts the Complainant’s submission that the results exhibited by the Respondent are undated and lack other relevant information. The Panel also accepts that the Respondent has unduly restricted those supposed searches to United States websites. Given that a simple Google search, certainly in February 2022 or at the date of the Complaint, would undoubtedly have returned numerous relevant results, the Panel does not find the Respondent’s submissions concerning its supposed searches to be persuasive. Moreover, even if relevant searches were carried out, there is still no explanation from the Respondent for its choice of the term “bsv blockchain” in the first place.

The Panel having found that the Respondent was aware of the use of the mark BSV in connection with, *inter alia*, blockchain technology at the date of registration of the disputed domain name, the Panel also finds that such registration was made with the intention of taking unfair advantage of the rights attaching to that mark (such rights being in the hands of the Complainant’s predecessors at that time). The Respondent has offered no other explanation for its inclusion of the mark BSV in the disputed domain name and, on its own admission, its website contains no information about the Bitcoin SV version. The Panel therefore accepts the Complainant’s submission that the disputed domain name is likely to have been registered with the intention of misleading Internet users as to some connection between the relevant website and the BSV version of Bitcoin and, therefore, to increase the audience of that website.

Concerning the Respondent’s use of the disputed domain name, the Panel finds that it has resolved to a website which itself contains external links to a website at “www.gemini.com”, offering cryptocurrency and related trading services. The Complainant submits that, by promoting and offering BTC on those websites as opposed to BSV, the Respondent is competing with the Complainant, a matter which the Respondent denies, based on its submission that neither party is engaged in commercial activity and the Complainant’s own statements that two the Bitcoin versions were not competitive.

As observed in section 3.1.3 of [WIPO Overview 3.0](#): “Noting that the scenarios enumerated in UDRP paragraph 4(b) are non-exhaustive, panels have applied the notion of a ‘competitor’ beyond the concept of an ordinary commercial or business competitor to also include the concept of ‘a person who acts in opposition to another’ for some means of commercial gain, direct or otherwise”. While the Panel finds this wider definition of “competitor” properly to encompass the relationship of the Parties, the matter is not in fact of crucial importance since the Respondent is, in any event, taking unfair commercial advantage of the Complainant’s rights by redirecting visitors to its website to the commercial Gemini website. The Panel therefore finds 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 Complainant’s mark 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 finds in the circumstances that the disputed domain name has been registered and is being used in bad faith.

8. 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, <bsvblockchain.com>, be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: September 8, 2022