



NATIONAL ARBITRATION FORUM

DECISION

AOL Inc. v. Bladimir Boyiko
Claim Number: FA0912001298295

PARTIES

Complainant is **AOL Inc.** ("Complainant"), represented by **James R. Davis**, of **Arent Fox LLP**, Washington D.C., USA. Respondent is **Bladimir Boyiko** ("Respondent"), Russia.

REGISTRAR AND DISPUTED DOMAIN NAMES

The domain names at issue are <**wwaol.com**>, <**nmapquest.com**>, <**nestscape.com**>, <**moviesfone.com**>, and <**aimes.com**>, registered with **Enom, Inc.**

PANEL

The undersigned certifies that he or she has acted independently and impartially and to the best of his or her knowledge has no known conflict in serving as Panelist in this proceeding.

Houston Putnam Lowry, Chartered Arbitrator, as Panelist.

PROCEDURAL HISTORY

Complainant submitted a Complaint to the National Arbitration Forum electronically on December 10, 2009; the National Arbitration Forum received a hard copy of the Complaint on December 11, 2009.

On December 10, 2009, Enom, Inc. confirmed by e-mail to the National Arbitration Forum that the <**wwaol.com**>, <**nmapquest.com**>, <**nestscape.com**>, <**moviesfone.com**>, and <**aimes.com**> are registered with Enom, Inc. and that Respondent is the current registrant of the names. Enom, Inc. has verified that Respondent is bound by the Enom, Inc. registration agreement and has thereby agreed to resolve domain-name disputes brought by third parties in accordance with ICANN's Uniform Domain Name Dispute Resolution Policy (the "Policy").

On December 11, 2009, a Notification of Complaint and Commencement of Administrative Proceeding (the "Commencement Notification"), setting a deadline of December 31, 2009 by which Respondent could file a response to the Complaint, was transmitted to Respondent via e-mail, post and fax, to all entities and persons listed on Respondent's registration as technical, administrative and billing contacts, and to postmaster@wwaol.com, postmaster@nmapquest.com, postmaster@nestscape.com, postmaster@moviesfone.com, and postmaster@aimes.com by e-mail.

Having received no response from Respondent, the National Arbitration Forum transmitted to the parties a Notification of Respondent Default.

On January 7, 2010, pursuant to Complainant's request to have the dispute decided by a single-member Panel, the National Arbitration Forum appointed Houston Putnam Lowry, Chartered Arbitrator, as Panelist.

Having reviewed the communications records, the Administrative Panel (the "Panel") finds that the National Arbitration Forum has discharged its responsibility under Paragraph 2(a) of the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") "to employ reasonably available means calculated to achieve actual notice to Respondent." Therefore, the Panel may issue its decision based on the documents submitted and in accordance with the ICANN Policy, ICANN Rules, the National Arbitration Forum's Supplemental Rules and any rules and principles of law that the Panel deems applicable, without the benefit of any response from Respondent.

RELIEF SOUGHT

Complainant requests that the domain names be transferred from Respondent to Complainant.

PARTIES' CONTENTIONS

A. Complainant makes the following assertions:

1. Complainant AOL Inc. ("AOL") owns rights to numerous names and marks, as well as corresponding trademark registrations in the U.S., Russia and around the world, including but not limited to:
 - AOL (U.S. trademark Reg. No. 1977731 and Russian Reg. No. 145960)
 - AOL.COM (U.S. trademark Reg. No. 2325291 and Russian Reg. No. 194559)
 - MAPQUEST (U.S. trademark Reg. No. 2129378 and pending Russian trademark application No. 2007-734460)
 - MAPQUEST.COM (U.S. trademark Reg. No. 2496784)
 - MOVIEFONE (U.S. trademark Reg. No. 2822672)
 - MOVIEFONE.COM (U.S. trademark Reg. No. 2337719)
 - NETSCAPE (U.S. trademark Reg. No. 2027552 and Russian Reg. No. 160590)
 - NETSCAPE.COM (U.S. trademark Reg. No. 2923586) and
 - AIM (U.S. trademark Reg. No. 2423367) (collectively the "AOL Marks").

2. AOL uses AIM.COM and its federally registered trademarks AOL.COM, MAPQUEST.COM, MOVIEFONE.COM and NETSCAPE.COM to provide information and services on the Internet. The AOL Marks are used extensively at these Web sites, which are a significant method of promoting AOL's well-known services. As a result, consumers associate the AOL Marks, when used in domain names, with AOL and its services.

3. Long prior to Respondent's registration of the domains at issue in this proceeding, AOL adopted and began using its marks in connection with various entertainment, computer, and Internet-related goods and services. The distinctive AOL Marks are used and promoted around the world in connection with providing a broad range of information and services over the Internet and through traditional media. AOL has used its famous and distinctive marks continuously and extensively in interstate and international commerce in connection with the advertising and sale of its goods and services.
4. AOL is a pioneer and global leader in the computer, entertainment and online services industries. The company has invested substantial sums of money in developing and marketing its products, services and world-famous marks.
5. Tens of millions of subscribers and users around the world access and use AOL's services each day.
6. The AOL Marks have been and continue to be widely publicized through substantial advertising throughout the United States and the world. Many millions of dollars have been spent in connection with such advertising, which has been disseminated through a variety of media, including the Internet.
7. Sales under the AOL Marks exceed several billion dollars each year, and the general public has come to associate these marks with products and services of a high and uniform quality.
8. Because of these substantial advertising expenditures and sales, the distinctive AOL Marks have become famous among members of the purchasing public.
9. Many years after AOL's adoption and first use of its marks, Respondent registered the infringing domain names "wwAOL.com" "nMapQuest.com" "Nestscape.com" "Moviesfone.com" and "Aimes.com" (collectively the "Infringing Domains") with a bad faith intent to profit from the registration and use of the domains. Respondent's actions are a clear and blatant violation of AOL's intellectual property rights. Respondent's bad faith actions demonstrate an utter disregard and contempt for AOL's legal rights and ICANN's Uniform Domain Name Dispute Resolution Policy.
10. The Infringing Domains are nearly identical and confusingly similar to the AOL Marks. Consumer confusion is particularly likely because Respondent has registered and is using domain names that are common misspellings of the legitimate AOL Marks and associated domain names. *See Victoria's Secret v. Zuccarini*, FA 95762 (Nat. Arb. Forum Nov. 18, 2000) (merely misspelling or adding letters to marks does not create a distinct mark, but renders the domain name confusingly similar to Complainant's marks). As set forth above, the AOL Marks are known around the world and consumers that come across the infringing domain names are likely to believe that AOL endorses or is affiliated with Respondent or his Web sites.

11. Respondent registered and uses the infringing domains with a bad faith intent to capitalize on AOL's famous names and marks, and profit from the international and domestic goodwill that exist in the AOL Marks. As already noted, and more fully detailed below, Respondent's infringement is willful and repetitive.
12. Respondent has no rights or legitimate interests in the subject domain names. Respondent is not licensed or authorized to use any of the AOL Marks, and Respondent (Bladimir Boyiko) is not named or commonly known as the AOL Marks. The following is evidence of Respondent's bad faith registration and use of the Infringing Domains:
 - (a) Respondent's bad faith registration of the domains is evidenced by the fact that the Infringing Domains were registered many years after AOL created and registered its marks, and after they had become famous among consumers. See Annex E for Whois Records. The fact that Respondent registered so many domain names that infringe upon AOL's trademarks demonstrates that the domain names were registered in bad faith as part of a comprehensive scheme to collect infringing domain names to increase the likelihood that Respondent will attract Internet traffic from unknowing and unwitting Internet users. Therefore, the domains were registered in bad faith.
 - (b) Respondent's bad faith use of the Infringing Domains is shown by the commercial Web sites that he has used with some of the domains. Specifically, Respondent has routed or continues to route each of the domain names to commercial Web sites that advertise and promote AOL's services and the services of many of its competitors. *Id.* Respondent's use of the domain names in this manner violates Paragraph 4(b)(iv) of the UDRP and constitutes a bad faith use of the domains.
 - (c) AOL attempted to resolve this matter by writing Respondent and seeking an amicable transfer of the domain names. At the time AOL sent the letter, AOL was not aware of all the infringing domains owned by Respondent. Federal Express returned AOL's letter because Respondent is using false contact information in the Whois records. *Id.* AOL filed a false Whois complaint with the registrar eNom and sent a follow-up to Respondent via email. Respondent did not respond to AOL's mail. As a result of Respondent's actions, AOL had no choice but to file this complaint to seek a transfer of the domain names.
 - (d) Respondent's bad faith is further demonstrated by his significant pattern of cybersquatting. In addition to the domain names at issue in this proceeding, Respondent has lost at least four UDRP proceedings and still owns numerous domain names that infringe upon third party trademarks. This pattern of infringing conduct constitutes a bad faith use pursuant to Paragraph 4(b)(ii) of the UDRP.

- (e) Based upon (1) the fame of the AOL Marks; (2) Respondent's use of false contact information in the Whois records; (3) AOL's trademark registrations; (4) Respondent's significant pattern of infringing upon the AOL Marks and third party marks; (5) Respondent's failure to respond to AOL's correspondence; and (6) Respondent's use of the Infringing Domains to route to commercial Web sites, Respondent cannot in good faith claim that he had no knowledge of AOL's rights in its famous names and marks. Furthermore, Respondent cannot claim in good faith that he made a legitimate noncommercial or fair use of the Infringing Domains, or that Respondent is commonly known as any of the AOL Marks.

B. Respondent failed to submit a Response in this proceeding.

FINDINGS

Complainant, AOL Inc., provides different services and information on the Internet. Complainant uses its numerous trademarked brands to offer specific services and information, such as mapping services and movie listing and information services. Complainant holds numerous trademark registrations with the United States Patent and Trademark Office ("USPTO") for its AOL.COM (Reg. No. 2,325,291 issued March, 7 2000), MAPQUEST.COM (Reg. No. 2,496,784 issued January 13, 1998), NETSCAPE (Reg. No. 2,027,552 issued December 31, 1996), MOVIEFONE.COM (Reg. No. 2,337,719 issued April 4, 2000), and AIM marks (Reg. No. 2,423,367 issued January 23, 2001).

Respondent, Bladimir Boyiko, registered the <**wwaol.com**> domain name on October 31, 2000, <**nmapquest.com**> domain name on October 28, 2000, <**netscape.com**> domain name on November 6, 2000, <**moviesfone.com**> domain name on November 10, 2000, and <**aimes.com**> domain name on November 1, 2000. The disputed domain names resolve to parked websites featuring hyperlinks to Complainant and Complainant's competitors in the Internet information and services industry.

Respondent has been a respondent in multiple UDRP proceedings in which disputed domain names were transferred from Respondent to the complainants in those cases. *See Smith & Hawken, Ltd. v. Boyiko*, FA 755733 (Nat. Arb. Forum Sep. 6, 2006); *see also TRAVELOCITY.COM LP v. Boyiko*, FA 1245545 (Nat. Arb. Forum March 16, 2009).

DISCUSSION

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

In view of Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of Complainant's undisputed representations pursuant to paragraphs 5(e), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to

accept all reasonable allegations and inferences set forth in the Complaint as true unless the evidence is clearly contradictory. *See Vertical Solutions Mgmt., Inc. v. webnet-marketing, inc.*, FA 95095 (Nat. Arb. Forum July 31, 2000) (holding that the respondent's failure to respond allows all reasonable inferences of fact in the allegations of the complaint to be deemed true); *see also Talk City, Inc. v. Robertson*, D2000-0009 (WIPO Feb. 29, 2000) ("In the absence of a response, it is appropriate to accept as true all allegations of the Complaint.").

Paragraph 4(a) of the Policy requires that Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (1) the domain name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (2) Respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered and is being used in bad faith.

Identical and/or Confusingly Similar

Complainant has established rights in its AOL.COM (Reg. No. 2,325,291 issued March, 7 2000), MAPQUEST.COM (Reg. No. 2,496,784 issued January 13, 1998), NETSCAPE (Reg. No. 2,027,552 issued December 31, 1996), and MOVIEFONE.COM (Reg. No. 2,337,719 issued April 4, 2000) marks through its trademark registrations with the USPTO. Previous panels have found a trademark registration with the USPTO is sufficient to establish rights in a mark under Policy ¶4(a)(i). *See Expedia, Inc. v. Tan*, FA 991075 (Nat. Arb. Forum June 29, 2007) ("As the [complainant's] mark is registered with the USPTO, [the] complainant has met the requirements of Policy ¶4(a)(i)."); *see also AOL LLC v. Interrante*, FA 681239 (Nat. Arb. Forum May 23, 2006) (finding that where the complainant had submitted evidence of its registration with the USPTO, "such evidence establishes complainant's rights in the mark pursuant to Policy ¶4(a)(i)."). Therefore, the Panel finds Complainant has established rights in its AOL.COM, MAPQUEST.COM, NETSCAPE, and MOVIEFONE.COM marks pursuant to Policy ¶4(a)(i).

While some panels have further found a complainant establishes rights in a mark at the date of the trademark application with the USPTO, this Panel believes the rights date as of the first use recited in the trademark application. Complainant filed a trademark application for its AIM mark with the USPTO on February 15, 2000 (Reg. No. 2,423,367 issued January 23, 2001) with a first use of April 1997. Respondent registered the <aimes.com> domain name on November 1, 2000. This Panel finds Complainant has established rights under Policy ¶4(a)(i) in the AIM mark through its registration of the mark with the USPTO. *See Hershey Co. v. Reaves*, FA 967818 (Nat. Arb. Forum June 8, 2007) (finding that the complainant's rights in the KISSES trademark through registration of the mark with the USPTO "date back to the filing date of the trademark application and predate [the] respondent's registration"); *see also Innomed Techs., Inc. v.*

DRP Servs., FA 221171 (Nat. Arb. Forum Feb. 18, 2004) (“Registration of the NASAL-AIRE mark with the USPTO establishes Complainant's rights in the mark.”); *see also Expedia, Inc. v. Tan*, FA 991075 (Nat. Arb. Forum June 29, 2007) (“As the [complainant’s] mark is registered with the USPTO, [the] complainant has met the requirements of Policy ¶4(a)(i).”).

Complainant claims Respondent’s <**wwaol.com**> domain name is confusingly similar to Complainant’s AOL.COM mark. The disputed domain name contains Complainant’s entire mark and adds two letters “ww.” The Panel finds the addition of these two particular letters is insufficient to adequately distinguish the disputed domain name from Complainant’s mark. *See Dow Jones & Co., Inc. v. Powerclick, Inc.*, D2000-1259 (WIPO Dec. 1, 2000) (holding that the deliberate introduction of errors or changes, such as the addition of a fourth “w” or the omission of periods or other such “generic” typos do not change respondent’s infringement on a core trademark held by the complainant); *see also Victoria’s Secret v. Zuccarini*, FA 95762 (Nat. Arb. Forum Nov. 18, 2000) (finding that, by misspelling words and adding letters to words, a respondent does not create a distinct mark but nevertheless renders the domain name confusingly similar to the complainant’s marks). Therefore, the Panel concludes Respondent’s <**wwaol.com**> domain name is confusingly similar to Complainant’s AOL.COM mark pursuant to Policy ¶4(a)(i).

Complainant argues the <**nmapquest.com**> domain name is also confusingly similar to Complainant’s MAPQUEST.COM mark. Respondent uses a common misspelling of Complainant’s mark in the disputed domain name by adding the letter “n” to the mark. Previous panels have found common misspellings of a complainant’s mark fail to adequately distinguish the disputed domain name from a complainant’s mark. *See Amazon.com, Inc. v. Ikhizamah*, D2002-1168 (WIPO Mar. 17, 2003) (holding that the <**zamazon.com**> domain name was confusingly similar to the complainant’s AMAZON.COM mark); *see also Am. Online, Inc. v. Tencent Commc’ns Corp.*, FA 93668 (Nat. Arb. Forum Mar. 21, 2000) (finding that <**oicq.net**> and <**oicq.com**> are confusingly similar to the complainant’s mark, ICQ). Thus, the Panel finds Respondent’s <**nmapquest.com**> domain name is confusingly similar to Complainant’s MAPQUEST.COM mark under Policy ¶4(a)(i).

Complainant further contends Respondent’s <**netscape.com**> domain name is confusingly similar to Complainant’s NETSCAPE mark. The disputed domain name misspells Complainant’s mark by adding the letter “s.” The disputed domain name also adds the generic top-level domain (“gTLD”) “.com” to Complainant’s mark. The Panel finds the use of a common misspelling of Complainant’s mark coupled with the addition of a gTLD still fails to sufficiently distinguish the disputed domain name from Complainant’s mark. *See supra Amazon.com, Inc. v. Ikhizamah*; *see also supra Am. Online, Inc. v. Tencent Commc’ns Corp.*; *see also Jerry Damson, Inc. v. Tex. Int’l Prop. Assocs.*, FA 916991 (Nat. Arb. Forum Apr. 10, 2007) (“The mere addition of a generic top-level domain (“gTLD”) “.com” does not serve to adequately distinguish the Domain Name from the mark.”). The Panel concludes the <**netscape.com**> domain name is

confusingly similar to Complainant's NETSCAPE.COM mark pursuant to Policy ¶4(a)(i).

Complainant claims Respondent's <moviesfone.com> domain name is confusingly similar to Complainant's MOVIEFONE.COM mark. The disputed domain name adds the letter "s" to Complainant's mark to create a common misspelling of Complainant's mark. Previous panels have held that a disputed domain name remains confusingly similar to a complainant's mark after the addition of a letter to make the disputed domain name a common misspelling of Complainant's mark. *See supra Amazon.com, Inc. v. Ikhizamah*; *see also supra Am. Online, Inc. v. Tencent Commc'ns Corp.*. The Panel holds that Respondent's <moviesfone.com> domain name is confusingly similar to Complainant's MOVIEFONE.COM mark pursuant to Policy ¶4(a)(i).

Finally, Complainant alleges Respondent's <aimes.com> domain name is confusingly similar to Complainant's AIM mark. The disputed domain name contains a common misspelling of Complainant's mark by adding the letters "e" and "s." The disputed domain name further adds the gTLD ".com." Previous panels have held that common misspellings of a complainant's mark remain confusingly similar to the mark. *See supra Kelson Physician Partners, Inc. v. Mason*; *see also supra L.F.P., Inc. v. Yarbrough*. Past panel have held the combination of a complainant's mark with a gTLD is irrelevant under a Policy ¶4(a)(i) analysis. *See Nev. State Bank v. Modern Ltd. – Cayman Web Dev., FA 204063* (Nat. Arb. Forum Dec. 6, 2003) ("It has been established that the addition of a generic top-level domain is irrelevant when considering whether a domain name is identical or confusingly similar under the Policy."). Therefore, the Panel concludes Respondent's <aimes.com> domain name is confusingly similar to Complainant's AIM mark under Policy ¶4(a)(i).

The Panel finds Policy ¶4(a)(i) satisfied.

Rights or Legitimate Interests

Complainant has alleged Respondent does not have any rights or legitimate interests in the <wwaol.com>, <nmapquest.com>, <netscape.com>, <moviesfone.com>, and <aimes.com> domain names. The burden shifts to Respondent to prove that it has rights or legitimate interests pursuant to Policy ¶4(a)(ii) once Complainant makes a *prima facie* case in support of its allegations. The Panel finds Complainant has made a sufficient *prima facie* case. The Panel may assume Respondent does not have rights or legitimate interests in the disputed domain names because of Respondent's failure to respond to the Complaint. However, the Panel will examine the record to determine whether Respondent has rights or legitimate interests in the disputed domain names under Policy ¶4(c). *See Do the Hustle, LLC v. Tropic Web, D2000-0624* (WIPO Aug. 21, 2000) ("Failure of a respondent to come forward to [contest complainant's allegations] is tantamount to admitting the truth of complainant's assertions in this regard."); *see also Bank of Am. Corp. v. McCall, FA 135012* (Nat. Arb. Forum Dec. 31, 2002) ("Respondent's failure to respond not only results in its failure to meet its burden, but also

will be viewed as evidence itself that Respondent lacks rights and legitimate interests in the disputed domain name.”).

Complainant contends Respondent is not commonly known by the <wwaol.com>, <nmapquest.com>, <nestscape.com>, <moviesfone.com>, and <aimes.com> domain names, and that Respondent has never been the owner or licensee of Complainant’s AOL.COM, MAPQUEST.COM, NETSCAPE, MOVIESFONE.COM, and AIM marks. The WHOIS records for the disputed domain names list the registrant as “Bladimir Boyiko,” which Complainant argues is not similar to any of the disputed domain names. Furthermore, Respondent has failed to show any evidence contrary to Complainant’s contentions. Because there is no evidence Respondent has ever been commonly known by any variant of Complainant’s marks, the Panel finds Respondent is not commonly known by the disputed domain names pursuant to Policy ¶4(c)(ii). *See Am. W. Airlines, Inc. v. Paik*, FA 206396 (Nat. Arb. Forum Dec. 22, 2003) (“Respondent has registered the domain name under the name ‘Ilyoup Paik a/k/a David Sanders.’ Given the WHOIS domain name registration information, Respondent is not commonly known by the [<awvacations.com>] domain name.”); *see also RMO, Inc. v. Burbridge*, FA 96949 (Nat. Arb. Forum May 16, 2001) (interpreting Policy ¶4(c)(ii) “to require a showing that one has been commonly known by the domain name prior to registration of the domain name to prevail”).

Respondent uses the <wwaol.com>, <nmapquest.com>, <nestscape.com>, <moviesfone.com>, and <aimes.com> domain names to resolve to parked websites containing hyperlinks and advertisements resolving to Complainant and Complainant’s competitors in the Internet information and services industry. Respondent likely receives click-through fees from the parked websites resolving from the disputed domain names. The Panel finds Respondent’s use of the disputed domain names is not a *bona fide* offering of goods or services under Policy ¶4(c)(i) or legitimate noncommercial or fair use of the disputed domain names under Policy ¶4(c)(iii). *See ALPITOUR S.p.A. v. Albloushi*, FA 888651 (Nat. Arb. Forum Feb. 26, 2007) (rejecting the respondent’s contention of rights and legitimate interests in the <bravoclub.com> domain name because the respondent was merely using the domain name to operate a website containing links to various competing commercial websites, which the panel did not find to be a use in connection with a *bona fide* offering of goods or services pursuant to Policy ¶4(c)(i) or a legitimate noncommercial or fair use pursuant to Policy ¶4(c)(iii)); *see also Skyhawk Techns., LLC v. Tidewinds Group, Inc.*, FA 949608 (Nat. Arb. Forum May 18, 2007) (“Respondent is using the <skycaddy.com> domain name to display a list of hyperlinks, some of which advertise Complainant and its competitors’ products. The Panel finds that this use of the disputed domain name does not constitute a *bona fide* offering of goods or services under Policy ¶4(c)(i), or a legitimate noncommercial or fair use under Policy ¶4(c)(iii).”).

The Panel finds Policy ¶4(a)(ii) satisfied.

Registration and Use in Bad Faith

Complainant alleges Respondent's use of the <wwaol.com>, <nmapquest.com>, <nestscape.com>, <moviesfone.com>, and <aimes.com> domain names is a part of a pattern of bad faith use and registration. Respondent has been a respondent in multiple UDRP proceedings in which disputed domain names were transferred from Respondent to the complainants in those cases. *See Smith & Hawken, Ltd. v. Boyiko*, FA 755733 (Nat. Arb. Forum Sep. 6, 2006); *see also TRAVELOCITY.COM LP v. Boyiko*, FA 1245545 (Nat. Arb. Forum March 16, 2009). The Panel finds this constitutes a pattern of bad faith registration and use of domain names under Policy ¶4(b)(ii). *See Westcoast Contempo Fashions Ltd. v. Manila Indus., Inc.*, FA 814312 (Nat. Arb. Forum Nov. 29, 2006) (finding bad faith registration and use pursuant to Policy ¶4(b)(ii) where the respondent had been subject to numerous UDRP proceedings where panels ordered the transfer of disputed domain names containing the trademarks of the complainants); *see also Hachette Filipacchi Presse v. Fortune Int'l Dev.*, FA 96685 (Nat. Arb. Forum Apr. 6, 2001) (finding that where the respondent has registered over 50 domain names that correspond to different well-known trademarks, evidence of a pattern exists).

Respondent is using the <wwaol.com>, <nmapquest.com>, <nestscape.com>, <moviesfone.com>, and <aimes.com> domain names to resolve to websites featuring advertisements and hyperlinks to Complainant and Complainant's competitors in the Internet services and information industry. Internet users interested in Complainant's information and services may instead visit a competitor's website through the hyperlinks featured on Respondent's websites resolving from the confusingly similar disputed domain names. The Panel finds this use of the confusingly similar disputed domain names disrupts Complainant's Internet services and information business, which evidences bad faith registration and use under Policy ¶4(b)(iii). *See Tesco Pers. Fin. Ltd. v. Domain Mgmt. Servs.*, FA 877982 (Nat. Arb. Forum Feb. 13, 2007) (concluding that the use of a confusingly similar domain name to attract Internet users to a directory website containing commercial links to the websites of a complainant's competitors represents bad faith registration and use under Policy ¶4(b)(iii)); *see also Zee TV USA, Inc. v. Siddiqi*, FA 721969 (Nat. Arb. Forum July 18, 2006) (finding that the respondent engaged in bad faith registration and use by using a domain name that was confusingly similar to the complainant's mark to offer links to third-party websites that offered services similar to those offered by the complainant).

The Panel presumes Respondent commercially benefits from its use of the disputed domain names through the receipt of click-through fees. Respondent likely receives a fee for each Internet user that click on a hyperlink or advertisement featured on the resolving websites. Respondent, therefore, presumably profits from Internet user's confusion as to Complainant's sponsorship or affiliation with the disputed domain names, resolving websites, and featured hyperlinks and advertisements. The Panel finds Respondent's use of the disputed domain names constitutes bad faith registration and use pursuant to Policy ¶4(b)(iv). *See Univ. of Houston Sys. v. Salvia Corp.*, FA 637920 (Nat. Arb. Forum Mar. 21, 2006) ("Respondent is using the disputed domain name to operate a website which

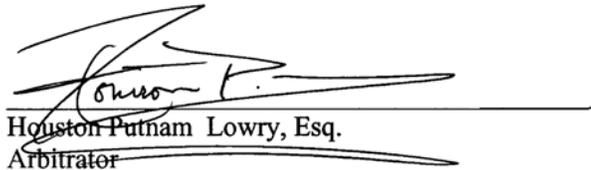
features links to competing and non-competing commercial websites from which Respondent presumably receives referral fees. Such use for Respondent's own commercial gain is evidence of bad faith registration and use pursuant to Policy ¶4(b)(iv)."); *see also Zee TV USA, Inc. v. Siddiqi*, FA 721969 (Nat. Arb. Forum July 18, 2006) (finding that the respondent engaged in bad faith registration and use by using a domain name that was confusingly similar to the complainant's mark to offer links to third-party websites that offered services similar to those offered by the complainant).

The Panel finds Policy ¶4(a)(iii) satisfied.

DECISION

Having established all three elements required under the ICANN Policy, the Panel concludes that relief shall be **GRANTED**.

Accordingly, it is Ordered that the <**wwaol.com**>, <**nmapquest.com**>, <**nestscape.com**>, <**moviesfone.com**>, and <**aines.com**> domain names be **TRANSFERRED** from Respondent to Complainant.



Houston Putnam Lowry, Esq.
Arbitrator

Houston Putnam Lowry, Chartered Arbitrator, Panelist
Dated: January 20, 2010

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