

## **ADMINISTRATIVE PANEL DECISION**

Space Needle LLC v. Erik Olson

Case No. D2011-0931

### **1. The Parties**

The Complainant is Space Needle LLC of Seattle, Washington, United States of America, represented by Law Office of Mark J. Nielsen, United States of America.

The Respondent is Erik Olson of Sultan, Washington, United States of America.

### **2. The Domain Name and Registrar**

The disputed domain name <spaceneedleseattle.com> is registered with Name.com LLC (the "Registrar").

### **3. Procedural History**

The Complaint was brought pursuant to the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), which was adopted by the Internet Corporation for Assigned Names and Numbers ("ICANN") on August 26, 1999, and approved on October 24, 1999, and also in accordance with the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") as approved on October 30, 2009 and the World Intellectual Property Organization ("WIPO") Supplemental Rules for Uniform Domain Name Dispute Resolution Policy in effect as of December 14, 2009 (the "Supplemental Rules").

The Complaint, with accompanying Exhibits A-F, including sub-annexes, was filed with the WIPO Arbitration and Mediation Center (the "Center") by e-mail on May 27, 2011. On June 14, 2001, the Complainant filed an amendment to the Complaint. For simplicity, the Panel will collectively refer both to the Complaint, as filed, and its subsequent amendment as "the Complaint", unless specific reference is to the contrary.

After receiving the Complaint, the Center, in accordance with paragraph 5 of the Supplemental Rules, verified that the original Complaint complied with the formal requirements of the Rules and the Supplemental Rules. In that regard, on May 30, 2011, the Center requested confirmation from the Registrar as to: whether the Registrar received a copy of the Complaint from the Complainant, contact and registrant information set forth in that Complaint relative to the disputed domain name, and whether the disputed domain name is indeed registered with the Registrar. The Center also requested the Registrar to specify: (a) the dates on which the registrant registered that disputed domain name (or acquired the registration) and when the registration will expire, (b) whether the Policy applies to the name, (c) the language of the registration

agreement, and (d) for confirmation that the disputed domain name will remain "locked" during the proceeding.

Subsequently, on May 31, 2011, the Registrar provided its response to the Center through which it stated that it had not received a copy of the Complaint, confirmed it is the registrar for the disputed domain name, stated that the named respondent on the Complaint, as filed, was not the actual registrant of the name, identified the actual registrant and provided contact information pertinent to the disputed domain name to the extent, as it then existed, in its Whois database. Further, the Registrar stated that it had not received a copy of the Complaint. The Registrar's response further indicated that: (a) the disputed domain name will expire on May 4, 2012, (b) the Policy applies to the domain name, (c) the registration agreement is in English, and (d) the disputed domain name will remain locked during the proceeding.

Also on May 31, 2011, the Registrar filed an informative filing with the Center through which the Registrar argued that Protected Domain Services, the named respondent in the Original Complaint, should not be a respondent in this matter as it was merely providing privacy services for the registrant, which it maintained was the true and sole respondent.

On June 14, 2011, the Center, through an e-mail letter, informed the Complainant of the actual registrant of the disputed domain name, Erik Olson, and its associated contact information -- all as provided by the Registrar. Through the letter, the Center invited the Complainant to amend the Complaint if it so desired. Later the same day, the Complainant filed an amendment to its Complaint, specifically to paragraph 7, to provide the contact information of Mr. Olson, the registrant, as that for the Respondent.

Pursuant to paragraph 4(d) of the Policy, the Complainant selected the Center as the ICANN approved administrative dispute resolution service provider to administer this proceeding. Through the Complaint, the Complainant requested a single-member panel.

The Center verified that the Complaint satisfied the formal requirements of the Policy, the Rules and the Supplemental Rules.

On June 15, 2011, the Center formally notified the Respondent of the filing of the Complaint, including an indication that the Center was forwarding a complete copy of the Complaint to the Respondent, together with all its annexes, by e-mail together with the Center's "Notification of Complaint and Commencement of Administrative Proceeding" being sent to the Respondent by both courier and facsimile. The Complaint and its accompanying documents, and all subsequent communications associated therewith, were provided in the preferred manners and to the addresses as mandated by paragraphs 2(a), 2(b) and 4(a) of the Rules.

Hence, the notification to the Respondent having occurred on June 15, 2011, under paragraph 4(c) of the Rules, this administrative proceeding is deemed to have commenced on that date.

Having reviewed the Complaint and all the correspondence, including that between the Center and the Registrar, the Panel agrees with the determination of the Center that the Complaint and its handling met the requirements of the Rules and the Supplemental Rules.

The Respondent was then provided with a 20 calendar day period, expiring on July 5, 2011 to file its Response with the Center and the Complainant.

As of July 5, 2011, the Center had not received a formal Response to the Complaint from the Respondent. Hence, the Center, in an email letter dated July 7, 2011, notified the Respondent of his default.

Pursuant to the Rules and Supplemental Rules, by e-mail letter dated July 14, 2011, the Center contacted the undersigned, Mr. Peter L. Michaelson, Esq., requesting his service as the sole panelist for this dispute. Subsequently, on the same date, Mr. Michaelson accepted and, pursuant to the requirements of paragraph 7 of the Rules, returned, by e-mail attachment to the Center, a fully executed Statement of Acceptance and Declaration of Impartiality and Independence. The Center, through an e-mail letter on

July 15, 2011 notified the Parties of the appointment of Mr. Michaelson as sole Panelist. The Panel finds that it was properly constituted.

Based on the deadline set forth in paragraph 15 of the Rules, a decision is to be issued by the Panel before July 29, 2011.

This dispute concerns one domain name, specifically <spaceneedleseattle.com>.

#### **4. Factual Background**

As indicated in the Whois registration record appearing in Exhibit A to the Complaint, the disputed domain name was registered on May 4, 2010 and is set to expire on May 4, 2012.

##### **A. Complainant's SPACE NEEDLE Marks**

The Complainant owns numerous United States trademark registrations, including some in block letters and which contain the words "Space Needle". The Complainant has provided, in Exhibit D to the Complaint, a copy of the entries for three of its marks from the publicly available TARR (Trademark Application and Registration Retrieval) database maintained by the United States Patent and Trademark Office (USPTO). Pertinent details of these registrations are as follows:

1. SPACE NEEDLE (block letters)  
United States Registration No. 2,771,413  
registered: October 7, 2003; filed: November 26, 2002

This mark is registered for use in connection with: "Entertainment services, namely, view and observation services from an observation deck of a skyscraper for the purpose of sightseeing; fireworks displays" in international class 41. The registration indicates that both first use of the mark in conjunction with these services and first use in commerce commenced as of May 31, 1962.

2. SPACE NEEDLE (block letters)  
United States Registration No. 747,365  
registered: March 26, 1963; filed: October 16, 1961  
renewed: April 4, 2003

This mark is registered for use in connection with: "Figurines and medallions, namely souvenirs bearing thereon replicas of the Space Needle Tower Construction" in international classes 14, 20 and 21. The registration indicates that first use of this mark in conjunction with these goods commenced as of June 15, 1961 and first use in commerce commenced as of August 30, 1961.

3. SPACE NEEDLE (block letters)  
United States Registration No. 747,326  
registered: March 26, 1963; filed: October 16, 1961  
renewed: April 4, 2003

This mark is registered for use in connection with: "Men's, women's and children's sweaters" in international class 25. The registration indicates that first use of this mark in conjunction with these goods commenced as of July 24, 1961 and first use in commerce commenced as of August 30, 1961.

##### **B. The Parties and their activities**

The Complainant owns and operates the "Space Needle" structure in Seattle, Washington. The Space Needle was constructed in 1961-62, in time for the opening of the Seattle World's Fair. It is a unique structure over 600 feet high. The Space Needle was the focal point of the Seattle World's Fair. Visitors to

the observation deck of the Space Needle receive a panoramic view of the Seattle area, Puget Sound and the surrounding mountains. The Space Needle is and has always been privately owned.

The Space Needle includes the Sky City restaurant which is located on a level below the Observation Deck, seats 250 patrons, is 500 feet above the ground, and rotates once an hour to give patrons a view from all directions during the course of a meal. The Complainant has sponsored many special promotions at the Space Needle, including its annual "New Years at the Needle" celebration and fireworks display every New Year's Eve. In addition to its Observation Deck and Sky City restaurant, the Space Needle also provides banquet facilities at a 100-foot Skyline level and a retail store at ground level that offers visitors a wide range of products from the Pacific Northwest region of the US and SPACE NEEDLE-branded clothing, cups and mugs, statuettes, jewelry, food items, and other merchandise. The Space Needle has over 1 million visitors annually and has had over 50 million visitors since it opened in 1962.

The Complainant has licensed the right to use the SPACE NEEDLE Marks and Space Needle images for a wide variety of products, services and promotions. Licensees of the SPACE NEEDLE Marks include Staples, Alaska Airlines, Old Navy, Scandinavian Airlines System, Remax, Starbucks, Microsoft and Macy's. The Complainant has also licensed the right to use the depictions of the Space Needle to Seattle area sports teams including the Seattle Supersonics, the Seattle Storm and the Seattle Sounders. The Complainant has also allowed use of the Space Needle itself for promotions of various charitable and community organizations.

The Complainant promotes its various goods and services through its website addressed at "www.spaceneedle.com". A hard-copy printout of that home page appears in Exhibit E to the Complaint.

The Complainant recently learned that the disputed domain name resolved to an information web site containing third party links. Though that site offers information regarding the Space Needle, it also contains third-party (specifically Google Ad) sponsored links. These links are entitled, for example, "Seattle", "Space Needle", "Seattle WA Lodging", "Hotel in Seattle", and "Map It Seattle" and automatically routes Internet users to pages of sponsored links. The Respondent's web site also features a prominent link to "Seattle 1-day Coupons", also sponsored by Google. None of these links has any affiliation with the Complainant or to the Space Needle, itself. The Complainant has provided, in Exhibit F, hard-copy printouts of various pages from the Respondent's website.

## **5. Parties' Contentions**

### **A. Complainant**

#### **(i) Identical or Confusingly Similar**

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's SPACE NEEDLE Marks because the name contains the formative term "Space Needle" to which the term "Seattle" has been appended. The latter is a city name which merely identifies the location of the Space Needle. Addition of that identifier not only fails to provide any distinctiveness to the disputed domain name to abate confusion of Internet viewers but exacerbates ensuing confusion.

Hence, the Complainant believes that it has satisfied the confusing similarity/identity requirement in paragraph 4(a)(i) of the Policy.

#### **(ii) Rights or Legitimate Interests**

The Complainant contends that, for various reasons, the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

First, the Complainant has never licensed or otherwise permitted the Respondent to use any of the Complainant's SPACE NEEDLE Marks.

Second, the Respondent does not own and cannot lawfully obtain any trademark or intellectual property rights in the SPACE NEEDLE Marks or any words or phrases that incorporate or are confusingly similar to any of those marks. As such, the Respondent is not commonly known by the term SPACE NEEDLE or the disputed domain name, which includes that term, and could not be so.

### **(iii) Registered and Used in Bad Faith**

The Complainant contends that, for various reasons, the Respondent has registered and is using the disputed domain name in bad faith pursuant to paragraph 4(a)(iii) of the Policy.

Specifically, with respect to bad faith registration, the Complainant contends that the Respondent was well aware of the Complainant and its marks, particularly since those marks were registered as early as 1963 with use commencing as of 1961, when it registered the disputed domain name in 2010. Moreover, since 1961 and even well prior to 2010, those marks, being highly visible and widely recognized, have acquired fame. In spite of that knowledge, the Respondent intentionally registered the disputed domain name with a sole purpose of diverting Internet users, interested in the Space Needle, to the Respondent's website and ultimately to commercially profit from doing so to the detriment of the Complainant. Thus, the Respondent violated paragraph 4(b)(iv) of the Policy by having intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark. Furthermore, by intentionally registering the name as a means of diverting web traffic to links of third-party websites, the Respondent also violated paragraph 4(b)(iii) of the Policy inasmuch as its actions were taken to primarily disrupt a competitor's, *i.e.* the Complainant's, business.

As to bad faith use, the Respondent uses the disputed domain name to resolve to pages of sponsored links, *i.e.* a "link farm" web site, in order to divert Internet users, who seek the Complainant's web site, to third-party sites instead for the Respondent's own commercial benefit. Those sites offer products and services from companies that have no affiliation whatsoever with the Complainant.

Moreover, to exploit the ensuing confusion of Internet users, the Respondent has designed the appearance of its website to resemble an "official" web site of the Complainant in an attempt to maximize the time that an Internet user would spend at the Respondent's site and, to the Respondent's ultimate benefit, potentially engage in commerce with any of the linked third-parties. In doing so, the Respondent, by trading on the Complainant's goodwill, is damaging the Complainant's business and reputation. Thus, the Respondent's actions constitute bad faith use.

## **B. Respondent**

The Respondent did not file a substantive response to the contentions raised in the Complaint.

## **6. Discussion and Findings**

Inasmuch as the Panel finds that no Response in compliance with the requirements of paragraph 5(b) of the Rules has been filed, this proceeding has effectively proceeded by way of default. Hence, under paragraphs 5(e), 14(a) and 15(a) of the Rules, the Panel has decided this administrative proceeding on the basis of the Complainant's undisputed factual representations.

### **A. Identity of Respondent**

The Panel agrees with the Registrar that, in a timely fashion, it notified the Center of the true identity of the Registrant. The Center, in turn, notified the Complainant of this identity, and the Complainant amended the Complaint to reflect the Registrar-identified registrant as Respondent. Accordingly, the Panel now holds that

the proper Respondent in this matter is Mr. Erik Olson. (As opposed to *Wikimedia Foundation Inc. v. Protected Domain Services - Customer ID: NCR 1181691 / webudaipur, web udaipur*, WIPO Case No. D2011-0107).

## **B. Identical or Confusingly Similar**

The Panel finds that the disputed domain name is confusingly similar to the Complainant's SPACE NEEDLE Marks.

From a simple comparison of the disputed domain name to the Complainant's mark SPACE NEEDLE, no doubt exists that the disputed domain name is confusingly similar to the Complainant's marks.

The primary difference between the disputed domain name and the mark SPACE NEEDLE is the appending of the name of the city "Seattle", where the Space Needle is located, to form a separate corresponding composite term along with, secondarily, appending the gTLD (generic top level domain) ".com" to that term to form the name with the last addition being irrelevant in assessing confusing similarity or identity under paragraph 4(a) of the Policy and thus ignored.

It is now very well-established in UDRP precedent, including numerous decisions previously rendered by this Panel, that a minor variation, such as adding a short letter or number groups or even generic or highly descriptive words, or geographic identifiers, such as a country name, to a mark, is usually insufficient in and of itself, when used in forming a domain name that results from modifying the mark, to confer requisite and sufficient distinctiveness to that name to avoid user confusion. Here, appending such a word, that being the city name "Seattle", in the manner which the Respondent specifically did, to the mark SPACE NEEDLE clearly resulted in such a minor variation. See, particularly *Oakley, Inc. v. Kate Elsberry, Elsberry Castro*, WIPO Case No. D2009-1286 (November 18, 2009); and *Clearwire Legacy, LLC v. Leon Ganesh*, WIPO Case No. D2010-0148 (March 17, 2010); *Burberry Limited v. Domain Admin*, WIPO Case No. D2009-0703 (August 11, 2009); *Krispy Kreme Doughnuts, Inc. v. John Sharp*, WIPO Case No. D2009-0099 (April 20, 2009); *MasterCard International Incorporated v. Global Prepaid*, WIPO Case No. D2008-2008 (March 25, 2009); *HRB Innovations Inc., Express Tax Service Inc. v. Calvin Brown*, WIPO Case No. D2008-1072 (September 4, 2008); *Dreamworks Animation, LLC v. Creahq, Mike Furlong*, WIPO Case No. D2008-0505 (May 28, 2008); *Marvel Manufacturing Company Inc. v. Koba Internet Sales, LP*, WIPO Case No. D2008-0265 (May 5, 2008); *MySpace, Inc. v. Edwin De Jesus, EDJ Associates Inc.*, WIPO Case No. D2007-1878 (March 12, 2008); *Blackrock, Inc. v. blackrockfinancialservices.com*, WIPO Case No. D2007-1627 (January 4, 2008); *F. Hoffmann-La Roche AG v. Transliner Consultants*, WIPO Case No. D2007-1359 (November 14, 2007); *National Football League v. Peter Blucher d/b/a BluTech Tickets*, WIPO Case No. D2007-1064 (September 24, 2007); *Toilets.com, Inc. v. Rons Porta Johns*, WIPO Case No. D2007-0952 (August 27, 2007); *Associated Bank Corp. v. Texas International Property Associates*, WIPO Case No. D2007-0334 (June 28, 2007); *Gerber Childrenswear Inc. v. David Webb*, WIPO Case No. D2007-0317 (April 24, 2007); *SPX Corporation v. Hevun Diversified Corporation*, NAF Claim No. FA 791657 (November 13, 2006); *Google Inc. v. Jennifer Burns*, NAF Claim No. FA 726096 (August 16, 2006); *The Cheesecake Factory Inc. and The Cheesecake Factory Assets Co., LLC v. Say Cheesecake*, WIPO Case No. D2005-0766 (September 12, 2005); *Napster, Inc. v. Giovanni Vinscani*, WIPO Case No. D2005-0531 (July 19, 2005); *Caesars Entertainment, Inc. v. Nova Internet Inc.*, WIPO Case No. D2005-0411 (June 22, 2005); *Lockheed Martin Corporation v. The Skunkworx Custom Cycle*, WIPO Case No. D2004-0824 (January 18, 2005); *Lockheed Martin Corporation v. Deborah Teramani*, WIPO Case No. D2004-0836 (December 1, 2004); *National Collegiate Athletic Association v. Dusty Brown*, WIPO Case No. D2004-0491 (August 30, 2004); *Lane-Labs USA, Inc. v. Powell Productions*, NAF Claim No. FA 155896 (July 1, 2003); and particularly *Cable News Network LP, LLP v. Elie Khouri d/b/a Channel News Network et al.*, NAF Claim No. FA 117876 (December 16, 2002).

Moreover, by including the city name "Seattle" with the Complainant's mark SPACE NEEDLE to form the disputed domain name, the potential for user confusion is likely to be exacerbated, not reduced. It is quite conceivable, given current common naming conventions and patterns in use on the Internet, that an Internet user, who seeks information on the Space Needle and knows its location but is uncertain of its associated

domain name for use in accessing its website, would form a domain name by appending a city name to the term "Space Needle" to form a composite name and then add the common gTLD ".com" to yield a resulting domain name <spaceneedleseattle.com>. The user would then insert that domain name into his/her browser with a reasonable expectation that doing so would direct that browser to the Complainant's website from which that individual could obtain the desired information. However, here the Respondent registered that domain name. The result is that the user's action would cause that person not to be taken to the Complainant's website, but rather, and without that user realizing the diversion, to the Respondent's site instead. Thus, the user would very likely be deceived into thinking that the Respondent's site, which provides sponsored links to third-party goods and services, is doing so in a manner that is somehow affiliated, related to or sponsored by the Complainant and authorized in doing so and that all the third-parties are similarly connected to the Complainant -- when in fact neither it nor any of third-parties is. Hence, adding the term "Seattle" to the domain name only heightens the likelihood of the Respondent causing user deception and ensuing confusion to the Respondent's ultimate benefit and the detriment of Complainant. See *Burberry, Krispy Kreme, Dreamworks* and *MySpace*, all cited *supra*.

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's SPACE NEEDLE Marks as to cause confusion; hence, the Complainant has satisfied its burden under paragraph 4(a)(i) of the Policy.

### **C. Rights or Legitimate Interests**

Based on the evidence of record here, the Panel finds that no basis exists which would appear to legitimize a claim by the Respondent, were it to have made one, to the disputed domain name under paragraph 4(c) of the Policy.

The Complainant has never authorized the Respondent to utilize any of its SPACE NEEDLE Marks in conjunction with any of the goods and services with which the Complainant uses its marks, nor does the Complainant apparently have any relationship or association whatsoever with the Respondent. As such, any use to which the Respondent were to put the Complainant's mark SPACE NEEDLE or one confusingly similar thereto in connection with the identical or even similar goods and services to those currently provided by the Complainant, as recited in its any of its trademark registrations, may in circumstances as are present here violate the exclusive trademark rights now residing with the Complainant. See, e.g., *Oakley, Burberry, HRB Innovations Inc., Dreamworks, MySpace, Blackrock, F. Hoffmann-La Roche AG, National Football League, Toilets.com, Inc., and Associated Bank*, all cited *supra*; also *Starline Publications, Inc. v. Unity*, WIPO Case No. D2008-1823 (February 2, 2009); *GoDaddy.com, Inc., v. GoDaddysDomain.com, Clark Signs, Graham Clark*, WIPO Case No. D2007-0303 (May 7, 2007); *Citgo Petroleum Corporation v. Richard Antinore*, WIPO Case No. D2006-1576 (March 14, 2007); *New Destiny Internet Group, LLC and Xplor Media, Inc. v. SouthNetworks*, WIPO Case No. D2005-0884 (October 14, 2005); *The Cheesecake Factory Inc., Napster and Caesars Entertainment, Inc., supra; Pelmorex Communications Inc. v. weathernetwork*, WIPO Case No. D2004-0898 (December 28, 2004); *Sybase, Inc. v. Analytical Systems*, WIPO Case No. D2004-0360 (June 24, 2004); *Caesars World, Inc. and Park Place Entertainment Corporation v. Japan Nippon*, WIPO Case No. D2003-0615 (September 30, 2003); *Leiner Health Services Corp. v. ESJ Nutritional Products*, NAF Claim No. FA 173362 (September 16, 2003); *AT&T Corp. v. Roman Abreu d/b/a Smartalk Wireless*, cited *supra*; *MPL Communications, Limited et al v. 1WebAddress.com*, NAF Claim No. FA 97092 (June 4, 2001); *Treeforms, Inc. v. Cayne Industrial Sales, Corp.*, NAF Claim No. FA 95856 (December 18, 2000); and *America Online, Inc. v. Xianfeng Fu*, WIPO Case No. D2000-1374 (December 11, 2000). Consequently, in the Panel's view, the Respondent could not legitimately acquire any public association between it and any of the SPACE NEEDLE Marks or even any mark similar thereto, at least for the goods and services provided by the Complainant under its marks.

Further, there is absolutely no evidence of record that the Respondent has ever been commonly known by the disputed domain name or more generally the mark SPACE NEEDLE. Nor could the Respondent likely ever become commonly known by either the disputed domain name or the mark without infringing on the exclusive trademark rights of the Complainant. This is so in light of the Complainant's exclusive trademark rights which date back 1961 -- nearly 50 years prior to the date (May 4, 2010) when the Respondent

registered the disputed domain name, and the widespread and substantial reputation, notoriety and evident fame which the Complainant has gained in its marks ever since. See, e.g., *Oakley*, *Burberry*, *Starline Publications*, *HRB Innovations Inc.*, *MySpace* and *Treeforms, Inc.*, all cited *supra*.

Hence, based on the evidence before the Panel, the Respondent does not fall within paragraph 4(c)(ii) of the Policy.

Lastly, the Panel infers from the lack of any Response, that the Respondent's actions in using the disputed domain name to resolve to a commercial website that not only provides information about the Space Needle itself and in a manner that is intentionally designed to create an appearance that the site is related to the Complainant but also contains unauthorized sponsored links to third-party goods and services that are related to the Space Needle in some manner, is nothing more than an intentional scheme to opportunistically and illicitly exploit the goodwill in the Complainant's SPACE NEEDLE Marks to the Complainant's detriment. Such a use does not constitute a *bona fide* offering of goods or services, let alone one that occurred prior to receiving any notice of this dispute. Nor does such use constitute either a legitimate noncommercial or fair use of the name, without intent of the Respondent for commercial gain, to misleadingly divert consumer or tarnish any of the Complainant's SPACE NEEDLE Marks. Consequently, the Respondent's conduct does not fall within either paragraph 4(c)(i) or 4(c)(iii) of the Policy either.

Accordingly, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain name within paragraph 4(a)(ii) and 4(c) of the Policy.

#### **D. Registered and Used in Bad Faith**

The Panel finds that the Respondent's actions, with respect to the disputed domain name, constitute bad faith registration and use.

From the lack of any response, the Panel infers that the Respondent was well aware of the Complainant's mark SPACE NEEDLE well before the Respondent registered the disputed domain name.

Yet, in spite of that knowledge, the Respondent proceeded to register the domain name and then intentionally use that domain name as an instrumentality to divert Internet users to the Respondent's website through which those users were presented with sponsored links to third-parties unaffiliated with the Complainant. Obviously, the Respondent did this to generate click-through or other revenue from those links, thus depriving the Complainant of business opportunities and the revenue and other benefits that would ensue. This purpose becomes particularly self-evident given that the Respondent intentionally designed the appearance of its website to seemingly depict an "officially" sanctioned version of the Complainant's SPACE NEEDLE website, and, by doing so, further heighten the potential for causing viewer confusion and thereby increase the likelihood that such a user would transact business with one of the third-parties under the mistaken belief that any such party was affiliated, connected or associated, in some fashion, with the Complainant -- when in fact it was not and ultimately the Respondent, not the Complainant, derived financial benefit from any such transaction. In doing so, not only did the Respondent deprive the Complainant of legitimate business opportunities and the associated revenue but also it damaged the Complainant's marks and reputation.

Hence, the Panel concludes that the Respondent violated paragraph 4(a)(iii) of the Policy including specifically paragraphs 4(b)(iii) and 4(b)(iv) thereof.

Thus, the Panel concludes that the Complainant has provided sufficient proof of its allegations, with respect to the disputed domain name, to establish a case under paragraph 4(a) of the Policy upon which the relief it now seeks can be granted.

#### **7. Decision**

Accordingly, under paragraphs 4(i) of the Policy and 15 of the Rules, the Panel grants the relief sought by the Complainant. The disputed domain name, <spaceneedleseattle.com>, is ordered transferred to the Complainant.

**Peter L. Michaelson**

Sole Panelist

Dated: July 20, 2011