

Nominet UK Dispute Resolution Service

DRS 04129

The Royal Bank of Scotland Group plc

–v–

John William

Decision of Independent Expert

1. Parties:

Complainant: The Royal Bank of Scotland Group plc

Address: Business House F
Gogarburn
Post Office Box 1000
Edinburgh
Postcode: EH12 1HQ
Country: GB

Respondent: Mr. John William

Address: 34 Ropemaker Street
Buffalo
NY
Postcode: 14203
Country: United States

2. Domain Name: royalsb-of-scotlandonline.co.uk (“the Domain Name”).

3. Procedural Background:

The Complaint was lodged with Nominet on 19 October 2006. Nominet validated the Complaint and notified the Respondent of the Complaint on 23 October 2006 and informed the Respondent that he had 15 days within which to lodge a Response. The Respondent failed to respond. Mediation not being possible in those circumstances, Nominet so informed the Complainant and on 17 November 2006 the Complainant lodged the appropriate fee for a decision of an Expert pursuant to paragraph 7 of the Nominet UK Dispute Resolution Service Policy (“the Policy”) and paragraphs 5(d) and 8 of the Nominet UK Dispute Resolution Service Procedure (“the Procedure”). Confirmation of

payment was delayed for circumstances not relevant to this decision but was finally confirmed on 12 December 2006.

Andrew Murray, the undersigned, (“the Expert”) has confirmed to Nominet that he knew of no reason why he could not properly accept the invitation to act as Expert in this case and further confirmed that he knew of no matters which ought to be drawn to the attention of the parties, which might appear to call into question his independence and/or impartiality. On 27 December 2006, Nominet invited the undersigned, the Expert, to provide a decision on this case.

4. Outstanding Formal/Procedural Issues (if any):

The Respondent has not submitted a Response to Nominet in time (or at all) in compliance with paragraph 5(a) of the Procedure.

The Expert has seen copy communications from Nominet to the Respondent and has no reason to doubt that the Respondent has been properly notified of the Complaint in accordance with paragraphs 2 and 4(a) of the Procedure. Paragraph 15(b) of the Procedure provides, *inter alia*, that: “If in the absence of exceptional circumstances, a Party does not comply with any time period laid down in this Policy or the Procedure, the Expert will proceed to a Decision on the complaint.” There is no evidence before the Expert to indicate the presence of exceptional circumstances; accordingly, the Expert will now proceed to a Decision on the Complaint and notwithstanding the absence of a Response.

The lack of a Response does not entitle the Complainant to a default judgement. The Complainant must still prove their case to the required degree. The Expert will evaluate the Complainant’s evidence on its own merits and will draw reasonable inferences from it in accordance with paragraph 12(b) of the Procedure. Paragraph 15(c) of the Procedure provides that: “If, in the absence of exceptional circumstances, a Party does not comply with any provision in the Policy or this Procedure , the Expert will draw such inferences from the Party’s non-compliance as he or she considers appropriate.”

Generally, the absence of a Response from the Respondent does not, in the Expert’s view, entitle an Expert to accept as fact all uncontradicted assertions of the Complainant, irrespective of their merit. In this case it seems to the Expert that the probable facts speak for themselves and that it is not necessary to draw any special inferences. The Expert finds that the probable facts asserted by the Complainant and set out in the following section are indeed facts.

5. The Facts

5.1 The Royal Bank of Scotland Group plc (“RBS”) is one of the world’s leading financial services providers and one of the oldest banks in the UK. In addition to its strong UK presence, the Complainant has offices elsewhere in Europe, and in the United States and Asia.

- 5.2 The Complainant operates a number of brands worldwide and offers a wide range of financial products and services, including banking and insurance services, to both individual and institutional investors.
- 5.3 The Complainant is registered at Companies House and has been so registered since 1968.
- 5.4 A significant part of the Complainant's business revolves around its online financial services. The Complainant's online services are numerous and offer its customers, among other things, access to services in personal banking, corporate and institutional banking, credit card accounts, mortgage and loan account information, and insurance-related services.
- 5.5 The Domain Name was registered on 13 May 2006 by the Respondent. The Domain Name does not currently resolve to a webpage. It is averred by the Complainant that the 'Respondent's website apparently was suspended and taken down by the Registrar'.

6. The Parties' Contentions

Complainant:

The Complainant contends that:

The Complainant has rights in the Domain Name because:

- 6.1 The Complainant has numerous registrations for its Royal Bank of Scotland family of marks, including registrations with the UK Patent Office, the EU Office for Harmonization in the Internal Market, and the United States Patent and Trademark Office. Printouts reflecting certain of these registrations were made available to the Expert.
- 6.2 The Complainant owns and uses numerous domain names featuring its well-known Royal Bank of Scotland mark, including royalbankofscotland.co.uk (registered September 30, 1998) and royalbankofscotland.com (registered September 10, 1998). The Complainant uses these domain names to promote and operate its online financial business.
- 6.3 The Domain Name is similar to Complainant's name and mark. The Respondent has simply shortened the word "bank" to the letter "b", included hyphens before and after the word "of", and added to the Complainant's mark the word 'online' – which corresponds to a service the Complainant offers. These minor changes do not change the overall impression of the Domain Name, which strongly conveys the impression that it is sponsored by, or associated with, the Complainant because the Complainant's mark will be perceived by Internet users as the most distinctive and dominant component of the Domain Name. The Complainant refers the Expert to several DRS Decisions including National Westminster Bank Plc v Johnny Megaline [2006] DRS 03525 which found that the addition of the letter 'b',

whether used as an abbreviation for ‘bank’ or ‘business’, is insignificant and insufficient in analysing the similarity of the domain name at issue to the Complainant’s marks; The Gap Inc. v. Cybernet Ventures [2003] DRS 00820, which found that the domain name at issue, ‘gap-online.co.uk’ was sufficiently similar to the Complainant’s ‘Gap’ mark to give rise to the possibility of an abusive registration and Lilly ICOS LLC v. Mike Cialister [2006] DRS 03234 which found that the domain name “onlinecialis.co.uk” was similar to the name ‘Cialis’ because the addition of the term online was non-distinctive in the context of domain names and Cialis would be readily perceived by the public as the most distinctive and dominant component of the domain name. Consequently, the Complainant’s mark remains the dominant and distinctive element in the Domain Name, and the Domain Name’s confusing similarity to Complainant’s mark conveys the impression that the Domain Name is sponsored by, or somehow associated with, Complainant and that it relates to Complainant’s online financial services business.

- 6.4 But for these minor changes, the Domain Name is identical to Complainant’s “royalbankofscotland.co.uk” domain name.
- 6.5 The Domain Name is similar to the Complainant’s name and marks.
- 6.6 The Respondent registered “royalb-of-scotlandonline.co.uk” on 13 May 2006 long after Complainant acquired rights to their name and marks.
- 6.7 The Respondent has no apparent rights to the Domain Name.

The Domain Name in the hands of the Respondent is abusive as:

- 6.8 Upon information and belief, the Respondent registered the Domain Name for the purpose of unfairly disrupting Complainant’s business. Upon information and belief, the Respondent registered the Domain Name to perpetrate a fraud by diverting Internet users seeking access to Complainant’s online products and services to Respondent’s website, which, by its appearance and content, purported to be a website that was owned and operated by Complainant. Such use constitutes an abusive registration under DRS Policy Para. 3(a)(i)(C). The Expert is directed to National Westminster Bank Plc v. Johnny Megaline [2006] DRS 03525 where it was found that the domain name was an abusive registration as it resolved to a fraudulent imitation of Complainant’s website. Before physical evidence of Respondent’s fraud could be captured and this Complaint could be filed, however, the Respondent’s website apparently was suspended and taken down by the Registrar.
- 6.9 The Respondent has used and is using the Domain Name in a way that has confused people into believing, and has the potential to confuse people into believing, that the Domain Name is registered to Complainant, is operated or authorised by the Complainant, or is otherwise is connected with Complainant in breach of DRS Policy, Para.3(a)(ii). This was certainly the case where the Respondent was, upon

information and belief, using the Domain Name to perpetrate a fraud targeting the Complainant's customers. The Expert is directed to Enterprise Rent-a-Car Co. v. Alliance Ltd/Mr Rajiv Chugh [2006] DRS 3846 where it was found that the Respondent's use of the domain name and fraudulent efforts to profit off of the Complainant's goodwill and reputation to target the Complainant's business and customers is evidence of abusive registration. Moreover, even today, the Respondent's failure to use the Domain Name to operate an active webpage creates the potential for further confusion and, thus, serious disruption to Complainant's business. For example, customers of the Complainant may access the Domain Name only to be confused and aggravated by what they perceive as an inactive site. Such confusion has a clear detrimental effect on the Complainant's business, including the potential loss of customers. In a similar situation, an Expert held that a Respondent's registration of a domain name which resolved to an inactive webpage was an abusive registration under DRS Policy Section 3(a)(ii). The Expert is directed to Amazon.com Inc. v Microplace Ltd. (t/a Netknowledge) [2004] DRS 01781 where the Expert found that "[T]here is, very clearly, a serious potential for such disruption for, as the Complainant so graphically describes, potential purchasers who type the disputed domain name into their browser by mistake instead of that of the Complainant's UK website, will be taken to an inactive site...So, when presented with what seems to be an inactive site, potential purchasers will assume that the Complainant's UK website is inactive, or is temporarily out of operation. As a result, such users may indeed, as the Complainant suggests, go to other internet sites operated by the Complainant's competitors in order to purchase their goods. Thus, not only does the existence of the disputed domain name have the potential for disrupting the Complainant's business there is no doubt that its continued existence is likely to confuse users into believing that the disputed domain name is connected with the Complainant when it is not." Accordingly, this constitutes an abusive registration and use under paragraphs 3(a)(i)(C) and (ii) of the Policy.

- 6.10 The Respondent's registration and use of the Domain Name constitutes an abusive registration for another reason: because the Respondent is not the legitimate owner of the mark and has not been given permission to use the mark, there is no legitimate purpose to which the Respondent could put the Domain Name. Even though the Domain Name is (apparently) unused at this time, any realistic use of it by the Respondent would constitute passing off and/or trade mark infringement. The Domain Name is therefore an 'instrument of fraud' in the hands of the Respondent. See Kodak Ltd. v Brian Robertson [2003] DRS 00956. Indeed, where a Respondent cannot use a domain name without violating the applicable law, the registration is abusive even if the Respondent has done no more than register the name (as per Nokia Corp. v Just Phones [2002] DRS 0058) which validates the argument that merely by registering in the Respondent's name a domain name such as the Domain Name at issue, comprising a famous and distinctive trade mark combined with a mere product description, the registration must necessarily have been made in a manner which took unfair advantage of the Complainant's Rights, and citing the analysis applied in British Telecommunications plc and Others v. One in a Million Ltd and Others [1999] ETMR 61.

- 6.11 There appear to be no circumstances to which the Respondent could point to show that the Registration is not abusive for the purposes of paragraph 4 of the Policy. In particular: (a) the Respondent has not been commonly known by the name ‘Royal Bank of Scotland’ or ‘royalb-of-scotlandonline’; (b) there is no active website to be found at the address www.royalb-of-scotlandonline.co.uk; (c) in view of the fame of Complainant’s marks, the Respondent cannot make legitimate non-commercial or fair use of the Domain Name; (d) nor can he make a genuine offering of goods or services under the Domain Name; and (e) the Domain Name is not generic or descriptive.

Respondent:

- 6.17 The Respondent has not responded.

7. Discussion and Findings

7.1 General

According to paragraph 2 of the Policy, in order to succeed in this complaint, the Complainant has to prove to the Expert that, on the balance of probabilities that:

- i. the Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Name; **and***
- ii. the Domain Name, in the hands of the Respondent, is an Abusive Registration.*

These matters must be proven by the Complainant, notwithstanding the failure by the Respondent to respond. The effect of the Respondent’s default is rather that, under paragraph 15(c) of the Procedure (there being no exceptional circumstances in this case) the Expert is required to draw such inferences from the Respondent’s non-compliance as he considers appropriate.

7.2 Complainant’s Rights

7.2.1 Rights are defined in the Policy as including, but not limited to, rights enforceable under English law. This is usually demonstrated by reference to a trade mark registration or evidence of active trading using the name or mark in question.

7.2.2 In this case, the Complainant relies upon their registered rights in the mark “Royal Bank of Scotland” and in their domain names “royalbankofscotland.co.uk” and “royalbankofscotland.com”. The Complainant has demonstrated that they hold a series of trade mark registrations at the UK Trade Marks Registry, at EU Office for Harmonisation, as well as many other trade mark registries around the globe in the term “Royal Bank of Scotland” all of which predate the registration of the Domain Name.

7.2.3 The question remains whether the Domain Name is sufficiently similar to the Complainant’s name and mark?

- 7.2.4 As noted by the Complainant in their Complaint: “the Respondent has simply shortened the word “bank” to the letter “b”, included hyphens before and after the word “of”, and added to the Complainant’s mark the word ‘online’ – which corresponds to a service the Complainant offers. These minor changes do not change the overall impression of the Domain Name, which strongly conveys the impression that it is sponsored by, or associated with, the Complainant because the Complainant’s mark will be perceived by Internet users as the most distinctive and dominant component of the Domain Name.”
- 7.2.5 The Complainant directs the Expert to several Decisions which have considered similar issues, including National Westminster Bank Plc v Johnny Megaline [2006] DRS 03525 which found that the addition of the letter ‘b’, whether used as an abbreviation for ‘bank’ or ‘business’, is insignificant and insufficient in analysing the similarity of the domain name at issue to the Complainant’s marks; The Gap Inc. v. Cybernet Ventures [2003] DRS 00820, which found that the domain name at issue, ‘gap-online.co.uk’ was sufficiently similar to the Complainant’s ‘Gap’ mark to give rise to the possibility of an abusive registration and Lilly ICOS LLC v. Mike Cialister [2006] DRS 03234 which found that the domain name “onlinECIALIS.co.uk” was similar to the name ‘Cialis’ because the addition of the term online was non-distinctive in the context of domain names and Cialis would be readily perceived by the public as the most distinctive and dominant component of the domain name.
- 7.2.6 On the basis of the evidence presented the Expert is satisfied that the Complainant has rights in respect of the mark “Royal Bank of Scotland” which is sufficiently similar to the Domain Name in question. Consequently, the Expert finds that, for purposes of the Policy, the Complainant has rights in respect of a name or mark, which is identical or similar to the Domain Name.

7.3 Abusive Registration

Paragraph 1 of the Policy defines “Abusive Registration” as:-

“a Domain Name which either:

- i. was registered or otherwise acquired in a manner, which at the time when the registration or acquisition took place, took unfair advantage of or was unfairly detrimental to the Complainant’s Rights; OR*
- ii. has been used in a manner, which took unfair advantage of or was unfairly detrimental to the Complainant’s Rights.”*

Under paragraph 3(a) of the Policy is listed a non-exhaustive list of factors which may be evidence that the Domain Name is an Abusive Registration. The Complainant have indicated that they believe that in particular they may make out a claim under paragraph 3(a)(i)(C):

The Respondent has registered or otherwise acquired the Domain Name primarily for the purpose of unfairly disrupting the business of the Complainant.

And further under paragraph 3(a)(ii):

Circumstances indicating that the Respondent is using the Domain Name in a way which has confused people or businesses into believing that the Domain Name is registered to, operated or authorised by, or otherwise connected with the Complainant.

7.3.1 Paragraph 3(a)(i)(C)

7.3.1.1 In making their claim under paragraph 3(a)(i)(C), the Complainant asserts “upon information and belief, the Respondent registered the Domain Name for the purpose of unfairly disrupting Complainant’s business. Upon information and belief, the Respondent registered the Domain Name to perpetrate a fraud by diverting Internet users seeking access to Complainant’s online products and services to Respondent’s website, which, by its appearance and content, purported to be a website that was owned and operated by Complainant. Such use constitutes an abusive registration under DRS Policy Para. 3(a)(i)(C).” The Complainant then goes on to direct the Expert to the decision in National Westminster Bank Plc v. Johnny Megaline [2006] DRS 03525 where it was found that the domain name was an abusive registration as it resolved to a fraudulent imitation of Complainant’s website.

7.3.1.2 There is though a fundamental difference between the decision in National Westminster Bank Plc v. Johnny Megaline and the current claim. In the current claim the Complainant offers no evidence that the Domain Name was being used in a manner which is abusive. The Complainant instead avers that “upon information and belief” the Domain Name is being so used. Such a bald statement, unsupported by evidence of any kind, cannot in the view of this Expert be sufficient to find an Abusive Registration. This amounts to an allegation not evidence of an Abusive Registration. I therefore find that there is insufficient evidence to support a claim that the Respondent has registered or otherwise acquired the Domain Name primarily for the purpose of unfairly disrupting the business of the Complainant, and reject the claim under paragraph 3(a)(i)(C) of the Policy.

7.3.2 Paragraph 3(a)(ii)

7.3.2.1 In making their claim under paragraph 3(a)(ii), the Complainant asserts “the Respondent has used and is using the Domain Name in a way that has confused people into believing, and has the potential to confuse people into believing, that the Domain Name is registered to Complainant, is operated or authorised by the Complainant, or is otherwise is connected with Complainant in breach of DRS Policy, Para.3(a)(ii).” The Complainant opens this claim by averring that “this was

certainly the case where the Respondent was, upon information and belief, using the Domain Name to perpetrate a fraud targeting the Complainant's customers." Again for the reason given above I must reject this claim for a lack of evidence. The Complainant fails to provide any evidence about actual use of the Domain Name, meaning that we must instead look to the potential use of the Domain Name to determine whether this demonstrates "Circumstances indicating that the Respondent is using the Domain Name in a way which has confused people or businesses into believing that the Domain Name is registered to, operated or authorised by, or otherwise connected with the Complainant."

7.3.2.2 The Complainant again refers the Expert to several DRS decisions on this claim, the most useful of which is Amazon.com Inc. v Microplace Ltd. (t/a Netknowledge) [2004] DRS 01781. In that decision the website at the disputed domain name "wwwamazon.co.uk" was inactive, as with the current case. The Expert, Mr. Tatham, found that "[T]here is, very clearly, a serious potential for disruption for, as the Complainant so graphically describes, potential purchasers who type the disputed domain name into their browser by mistake instead of that of the Complainant's UK website, will be taken to an inactive site...So, when presented with what seems to be an inactive site, potential purchasers will assume that the Complainant's UK website is inactive, or is temporarily out of operation. As a result, such users may indeed, as the Complainant suggests, go to other internet sites operated by the Complainant's competitors in order to purchase their goods. Thus, not only does the existence of the disputed domain name have the potential for disrupting the Complainant's business there is no doubt that its continued existence is likely to confuse users into believing that the disputed domain name is connected with the Complainant when it is not."

7.3.2.3 The Complainant avers that this supports their claim under paragraph 3(a)(ii), but the facts of the two claims are not exactly coincidental and some of the differences between these two claims are, to the Expert's view, vital. If we examine the disputed domain names in the Amazon.com case the domain name was "wwwamazon.co.uk", which precisely replicates the name of the Complainant with the addition of "www". As Mr. Tatham noted: "The key to this case is the sheer impossibility of there being any innocent explanation as to why the Respondent should have chosen to adopt the Complainant's name and trade mark other than to the detriment of the Complainant."

7.3.2.4 The same cannot be said of the current claim. The Domain Name "royalb-of-scotlandonline.co.uk", although sufficiently similar to the Complainant's name to support this claim is not such a close facsimile of the Complainant's name or mark as in the Amazon case. Whereas Amazon could establish that people would make the common error of missing a full point after www leading to the scenario where potential purchasers who type the disputed domain name into their browser by mistake instead of that of Amazon's UK website, would be taken to an inactive site, and when presented with what seems to be an inactive site, potential purchasers would assume that their UK website is inactive, or is temporarily out of operation, the Complainant here cannot equally so establish.

7.3.2.5 I find it difficult to assume that any customer, or potential customer, of the Complainant would as first option attempt to locate the Complainant at a domain name as far from the Complainant's business identity as "royalb-of-scotlandonline.co.uk". As the Complainant admits "the Respondent has shortened the word "bank" to the letter "b", included hyphens before and after the word "of", and added to the Complainant's mark the word "online"". This is quite distinct from the domain name "wwwamazon.co.uk" which was described by Mr. Tatham as possessing "the sheer impossibility of there being any innocent explanation".

7.3.2.6 The Policy, at paragraph 3(a)(ii), requires the Complainant to establish "Circumstances indicating that the Respondent is using the Domain Name in a way which has confused people or businesses into believing that the Domain Name is registered to, operated or authorised by, or otherwise connected with the Complainant". Although there is clearly a similarity between the Domain Name and the Complainant's "royalbankofscotland.co.uk" domain name, there are though sufficient differences in this name to suggest it is not a foregone assumption, as with the Amazon claim, that mere possession of such a name is indicative of it leading to the assumption that individuals may be confused into "believing that the Domain Name is registered to, operated or authorised by, or otherwise connected with the Complainant". I could imagine the "b" in the Domain Name referring to Booksellers, Butchers (HM Sheridan in Ballater holds a Royal Warrant), Bakers, Builders or several other such trades. The fact that the Royal Bank of Scotland is rather better known than others who either hold a Royal Warrant or who simply are named Royal does not give them the monopoly over all uses of the "Royal B". The Domain Name is thus simply too generic to specifically be related to the Complainant in the mind of the public. I am aware of the recent decision of Mr. Blunt in The Royal Bank of Scotland v Melisha Bulldog [2006] DRS 4197 where he found in circumstances similar to this claim that "I am quite satisfied that persons or businesses are likely to be so confused, and in my judgment that may be sufficient to establish an Abusive Registration, since the list of factors identified in paragraph 3 of the Policy is stated to be non-exhaustive, and "actual confusion" is specifically identified in paragraph 3a(ii) of the Policy as being a factor which may be evidence of an Abusive Registration." I however find in this claim that the Domain Name is not sufficiently similar to that possessed by the Complainant to make such a finding.

7.3.2.7 Accordingly I find that there is insufficient evidence to support a claim that there are Circumstances indicating that the Respondent is using the Domain Name in a way which has confused people or businesses into believing that the Domain Name is registered to, operated or authorised by, or otherwise connected with the Complainant, and reject the claim under paragraph 3(a)(ii) of the Policy.

7.3.3 Instrument of Fraud

7.3.3.1 Finally the Complainant claims that "because the Respondent is not the legitimate owner of the mark and has not been given permission to use the mark, there is no

legitimate purpose to which the Respondent could put the Domain Name. Even though the Domain Name is (apparently) unused at this time, any realistic use of it by the Respondent would constitute passing off and/or trade mark infringement. The Domain Name is therefore an 'instrument of fraud' in the hands of the Respondent.

7.3.3.2 The Complainant refers the Expert to several decisions and cases on this including Kodak Ltd. v Brian Robertson [2003] DRS 00956, Nokia Corp. v Just Phones [2002] DRS 0058) and British Telecommunications plc and Others v. One in a Million Ltd and Others [1999] ETMR 61.

7.3.3.3 Taking each in turn. In the Kodak decision the domain name "kodapost" was identical to the name of the service offered by the Complainant for several years before registration of the domain name. Even in this event the Expert found that "in the absence of any active website or other use of the Domain Name, I do not accept that the Respondent is using the Domain Name in a way which has confused people or businesses into believing that the Domain Name is registered to, operated or authorised by, or otherwise connected with the Complainant", but following the guidance of the Court of Appeal in British Telecommunications plc and Others v. One in a Million Ltd and Others found that "(1) the trade name "Kodapost" is well-known brand name in use by the Complainant in the course of its business and that it has substantial goodwill attaching to that name; (2) there is no evidence that, so far as the general public is concerned, the name "Kodapost" denotes any entity other than the Complainant; and (3) although the Domain Name is (apparently) unused, any realistic use of it by the Respondent would constitute passing off and/or trade mark infringement.

7.3.3.4 In the Nokia decision the domain name "nokiaringtones.co.uk" was simply a fusing of the trade mark of the Complainant and a frequently offered service.

7.3.3.5 To be an instrument of fraud there must be a likelihood of confusion on the part of the general public. This issue has already been dealt with above (Section 7.3.2), and for the reasons set out there I believe that the Domain Name "royalb-of-scotlandonline.co.uk" is quite distinguishable from actual instruments of fraud such as "wwwamazon.co.uk", "nokiaringtones.co.uk" and "kodapost.co.uk". In these scenarios it is impossible to imagine any realistic use of the domain name by the Respondent without it constituting passing off and/or trade mark infringement. The Domain Name is sufficiently distinctive from the Complainant's mark to be used in a fair and reasonable manner by a variety of individuals (see 7.3.2.6) without infringement or damage of the Complainant's mark and name. I therefore find the Domain Name is not an instrument of fraud.

7.3.4 Finding

Accordingly, the Expert finds that the Domain Name is not an Abusive Registration as defined by paragraph 1 of the Policy on the basis that it is not being used in a manner which takes unfair advantage of the Complainant's rights.

8. Decision:

In light of the above findings, namely that the Complainant has Rights in respect of a name or mark which is similar to the Domain Name but that the Domain Name, in the hands of the Respondent, is not an Abusive Registration, the Expert directs that the complaint in respect of the Domain Name be refused.

Andrew Murray

Date: 10 January 2007