

DISPUTE RESOLUTION SERVICE

D00009293

**Decision of Independent Expert
(Summary Decision)**

We Buy Any Car Limited

and

Mazhar Rashid

1. The Parties:

Lead Complainant: We Buy Any Car Limited
Nixon Street
Rochdale
Lancashire
OL11 3JW
United Kingdom

Respondent: Mazhar Rashid
Queens Road
Halifax
Yorkshire
HX1 3XY
United Kingdom

2. The Domain Name:

<wewannabuyyourcar.co.uk> (the "Domain Name")

3. Notification of Complaint

I hereby certify that I am satisfied that Nominet has sent the complaint to the respondent in accordance with paragraphs 2 and 4 of the Procedure.

Yes No

4. Rights

The complainant has, to my reasonable satisfaction, shown Rights in respect of a name or mark which is identical or similar to the Domain Name.

Yes No

5. Abusive Registration

The complainant has, to my reasonable satisfaction, shown that the Domain Name is an Abusive Registration

Yes No

6. Other Factors

I am satisfied that no other factors apply which would make a summary decision unconscionable in all the circumstances

Yes No

7. Comments (optional)

This case is not straight forward. The difficulty for the Complainant in this case primarily arises out of the fact that the words in common between the Complainant's marks and the Domain Name are simply the words "we" "buy" and "car" being used in connection with dealings in goods that for which they are arguably descriptive.

Paragraph 4(ii) of the Policy provides that a factor that may demonstrate non-abusive registration is that the "Domain Name generic or descriptive and the Respondent is making fair use of it".

However, ultimately the Panel has decided that in the absence of any argument or evidence on the issue from the Respondent, there is no fair use in this case. Key to this finding is that fact that the Domain Name redirects internet users to a website operating from the <.com> version of that name that contains content that mimics the trading style of the Complainant. Of particular significance in this respect is the fact that the website displays the <wewannabuyyourcar.com> domain name in a manner that involves an obvious pastiche of one of the Complainant's mark (i.e. using a very similar textual style above similar alternating colour motor car devices).

In such circumstances, the logical inference is that the Complainant registered the Domain Name primarily because of its similarities and associations with the Complainant's mark, rather than because of the generic meaning of the words used in the Domain Name.

8. Decision

I, therefore, determine that the Domain Name <wewannabuyyourcar.co.uk> should be transferred to the Complainant.

Signed: Matthew Harris

Dated: 23rd December 2010