

DISPUTE RESOLUTION SERVICE

D00013170

Decision of Independent Expert

Jaguar Land Rover Limited

and

Mr Dafydd Morgan

1. The Parties:

Complainant: Jaguar Land Rover Limited
Abbey Road
Whitley
Coventry
West Midlands
CV3 4LF
United Kingdom

Respondent: Mr Dafydd Morgan
Glanyrafon Enterprise Park
Aberystwyth
Ceredigion
SY23 3JQ
United Kingdom

2. The Domain Name(s):

evoque-finance.co.uk
land-rover-evoque.co.uk
landrover-evoque.co.uk
new-defender.co.uk
new-landrover-defender.co.uk
new-landrover.co.uk
newlandrover-defender.co.uk

3. Procedural History:

06 August 2013, the Complaint was received.
06 August 2013, the Complaint was validated.
06 August 2013, the Notification of the Complaint was sent to the Parties.
13 August 2013, the Response was received.
13 August 2013, the Notification of the Response was sent to the Parties.
16 August 2013, the Reply reminder was sent.
21 August 2013, no Reply was received.
21 August 2013, a Mediator was appointed.
27 August 2013, Mediation started.
06 September 2013, Mediation failed.
06 September 2013, close of mediation and documents sent.
06 September 2013, the Expert decision payment was received.

I can confirm that I am independent of each of the Parties. To the best of my knowledge and belief, there are no facts or circumstances, past or present, or that could arise in the foreseeable future that need be disclosed as they might be of such a nature as to call in to question my independence in the eyes of one or both of the Parties.

4. Factual Background

- 4.1 The Complainant, a company incorporated in the United Kingdom, operates through a network of authorised dealers selling its new and approved used cars and providing a range of services for the same including financial, insurance, repair and maintenance.
- 4.2 The Complainant owns trade mark registrations for, among others, the names *Land Rover* (UK trade mark number 663199, registered in 1947), *Defender* (e.g. UK trade mark number 1399593, registered in 1989) and *Evoque* (CTM number 8797425, registered in 2010).
- 4.3 The Respondent registered the Domain Names on:

<i>evoque-finance.co.uk</i>	5
September 2011	
<i>land-rover-evoque.co.uk</i>	5 September
2011	
<i>landrover-evoque.co.uk</i>	5 September
2011	
<i>new-defender.co.uk</i>	25 April 2012
<i>new-landrover-defender.co.uk</i>	25 April 2012
<i>new-landrover.co.uk</i>	25 April 2012
<i>newlandrover-defender.co.uk</i>	25 April 2012

5. Parties' Contentions

The Complaint

For the purposes of this section of the Decision, the Expert has summarised the submissions of the Parties but only insofar as they are relevant to the matters that the Expert is required to determine under Nominet's Dispute Resolution Service ('DRS') Policy (the 'Policy').

- 5.1 In summary, the Complainant submitted that the Domain Names should be transferred to it for the reasons below.

The Complainant's Rights

- The Complainant submitted that it has Rights in the names/trade marks, *Land Rover*, *Defender* and *Evoque* (collectively the 'Names' and/or 'Marks' as appropriate) which are identical or similar to the Domain Names.
- The Complainant submitted that it is a "globally renowned" manufacturer of premium saloons, sports cars and sports utility vehicles, employing over twenty thousand people in the UK. It has been trading since just after the Second World War, first through selling different Land Rover vehicles and later adding the Range Rover vehicles to its range.
- The Complainant explained that its *Land Rover Discovery* model was launched in 1989 and then, in 1990, the Land Rover vehicle was re-branded as the *Land Rover Defender*. Also, that the Complainant announced the production of the *Range Rover Evoque* in 2011, which is a new compact SUV.
- The Complainant submitted that, through: advertising in the UK and EU (in magazines, newspapers and television); winning various industry awards; appearances at various Motor Shows (Geneva, Frankfurt and London); its website presence, it had acquired extensive goodwill and a substantial reputation in the Names/Marks. As a result of which, the public recognises the Names/Marks as identifying and distinguishing the Complainant's products and services.
- The Complainant submitted that some of the Domain Names had either the descriptive words 'new' or 'finance' appended to them and that such words, when used with the Names/Marks, would be "usually regarded" as being associated with the Complainant's field of activity (motor vehicles and services).
- Further, that the 'new' or 'finance' descriptive elements in the Domain Names do nothing to distinguish the Domain Names from the respective Names/Marks, since the Names/Marks are associated in the minds of the public with the Complainant's goods and services.

- The Complainant also submitted that the dominant and distinctive element in each of the Domain Names is one or more of the Names/Marks. The remainder of each Domain Name is just the domain suffix *.co.uk* or are the purely descriptive terms 'new' or 'finance'. Therefore, the Domain Names are identical or closely similar to the Marks/Names.

Abusive Registration

- The Complainant submitted that the registrations of the Domain Names by the Respondent are Abusive Registrations.
- The Complainant explained that, when it had become aware that the *land-rover-evoque.co.uk* Domain Name was registered to the Respondent (on or around 4 April 2013), it wrote to the Respondent seeking the immediate transfer of that Domain Name.
- Also, on or around 30 April 2013, the Complainant stated that it became aware that the Domain Names *new-landrover.co.uk*, *new-defender.co.uk* and *new-landrover-defender.co.uk* were being advertised for sale for £45,000 on eBay (the Complainant provided the Expert with a print-out of the relevant eBay page). The Complainant explained that it challenged that listing through eBay's Verified Rights Owner ('VeRO') Program process and, consequently, the listing was taken down.
- The Complainant explained that, on 15 May 2013, the Respondent had sent an email to it objecting to the VeRO action. It was at that stage that the Complainant knew that the Respondent was the seller of those Domain Names, and wrote a follow up letter to the Respondent on 28 May 2013 repeating its demand that the Domain Name *land-rover-evoque.co.uk* be transferred to it.
- The Respondent replied to the Complainant on 3 June 2013, addressing both the Complainant's action through the eBay VeRO process, and its letters of 4 April 2013 and 28 May 2013. The Respondent stated that he collects "internet domain names for investment purposes [...]. Some of these domains have been offered for sale for some time and I am aware of the value of some of the premium domains that I own to the motor trade, especially in driving high internet traffic."
- Further, the Respondent stated that, should the Complainant "be this eager to take over ownership of these domains", the Complainant should make him "a reasonable offer based on their overall value - especially with the potential value of the 'Defender' domains in the forthcoming new Defender product releases."
- In addition, the Respondent also wrote that he had "another, as yet, unconnected issue of global public interest which following meetings last week with some of the United Kingdom' most respected media organisations" and that he "would suggest that its not in Land Rover'

interest over the coming days, weeks and months to continue with [its] threats unless [it is] looking at self inflicting an international p.r. catastrophe."

- The Complainant responded to the Respondent's 3 June 2013 email on 20 June 2013 disputing the Respondent's entitlement to register or retain the Domain Names.
- The Complainant submitted that the Respondent responded the same day, repeating his offer to sell the Domain Names to the Complainant for "a reasonable price". Also, that the Respondent had stated that this "would of course remove the risk to either of us for expensive legal action."
- The Complainant stated that the Respondent then sent a further email to the Complainant on 21 June 2013 headed "Without Prejudice –Save As To Costs" with an offer to sell the Domain Names to the Complainant for £6,000 each [on the Expert checking the email, the Respondent actually stated "£6,000" rather than "£6,000 each" as the Complainant had submitted]. In that email, the Respondent wrote that "interest has been expressed for the domains that I have registered from a range of parties including garages and enthusiasts for a number of these domains."

Copies of the above referenced correspondence between the Complainant and the Respondent were exhibited as part of the Complaint.

- The Complainant submitted that, contrary to paragraph 3(a)(i)(A) of the Policy, the Respondent had registered the Domain Names primarily for the purposes of selling, renting or otherwise transferring the Domain Names back to it or one of its competitors for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly associated with acquiring or using the Domain Names.
- In support, the Complainant referenced the Respondent advertising several of the Domain Names for sale through eBay for £45,000, and also that the Respondent had offered to sell all the Domain Names to the Complainant "for £6,000 each." The Complainant submitted that these sums were "in excess of [the Respondent's] out-of-pocket expenses."
- The Complainant submitted that, contrary to Paragraph 3(a)(ii) of the Policy, the Respondent had threatened to use the Domain Names in a way which has confused or is likely to confuse people or businesses into believing that the Domain Names are registered to, operated or authorised by or otherwise connected to the Complainant.
- The Complainant submitted that the Respondent had indicated his intent to use the Domain Names for investment purposes in his 3 June 2013 and 21 June 2013 correspondence, through his reference to

making several of them "available for sale for some time" and "that interest had been expressed in several of the Domain Names by a range of parties including garages and enthusiasts."

- The Complainant submitted that the Respondent's use of the Names/Marks for the Domain Names without anything else to indicate any dissociation with the Complainant would indicate to members of the public that the Domain Names and any connected websites are either registered to, operated or authorised by, or otherwise connected with the Complainant; which is not the case.
- Finally, the Complainant inferred that the Respondent had made a threat, "which comes close to attempted blackmail", that the Complainant should not pursue his action or else risk an "international p.r. [sic] catastrophe".

Respondent's Response

5.2 In summary, the Respondent submitted that the Domain Names should not be transferred to the Complainant for the reasons set out below.

- The Respondent stated that he is a Land Rover enthusiast and that he was aware of the "proposed new launches of models" by the Complainant. He stated that the Complainant had sought "much publicity for this through the media."
- The Respondent also stated that he was aware of the commercial worth of various forums and blogs with regards to special interests (stating that it was "akin to people having a special interest in a particular type or make of vehicle such as Lotus or indeed a Land Rover").
- He stated that such forums generate a large number of Internet hits and, as such, "become commercially attractive due to things such as click per view revenue." He stated that his commercial background research in to this had included studying the development and sale of the "special interest websites and forum" website "Pprune", for a reported USD\$1.5m to Internet Brands.
- He submitted that his intention with the Domain Names was initially to set up Internet discussion forums with respect to the Land Rover and its various models. He submitted that there was never any intention to try to place Land Rover at a disadvantage or to pass-off its names or trade marks. He submitted that the Internet Forums "would allow discussion" in line with Nominet's Fair Use Policy, in particular paragraph 4.(b) of the DRS Policy.
- He submitted that he had paid "considerable fees" in relation to the development of the Internet Forums, as he had stated to the Complainant, and that he did not see the purchase of the Domain Names as a commercial venture in the way that the Complainant has suggested.

- He submitted that he registered the Domain Names "a considerable time after" the Complainant had announced its new vehicle models and that the Complainant could have, during that time, registered the Domain Names itself. The Respondent also submitted that the Complainant did not show any interest in his registration of the Domain Names until he had offered the Domain Names for sale via eBay.
- The Respondent explained that he had put the Domain Names up-for-sale after he had reviewed his business interests. He explained that he had tried to rationalise what time he had available to develop "the various ideas to achieve maximum advantage." He decided that he could not put sufficient time into the development of the Domain Names to see them "reach [their] full potential."
- Finally, the Respondent explained that he had attempted to informally mediate this matter with the Complainant, making an offer to sell it back the Domain Names at a price that would have covered his out of pocket expenses "what with the development of the forums into a format that was ready to use" and would have avoided the associated costs of the court action the Complainant was threatening.
- The Respondent also exhibited copies of his emails to the Complainant of 20 and 21 June 2013, as well as the Complainant's email to the Respondent of 20 June 2013.

The Expert notes that the Complainant and the Respondent exhibited various correspondence between them, including a 'Without Prejudice' headed email (collectively, the "Correspondence"). The Expert considers it appropriate on the facts before him to include such correspondence as part of each Party's submissions.¹

Complainant's Reply

5.3 No Reply by the Complainant to the Response was received.

6. Discussions and Findings

General

6.1 To succeed in the Complaint, the Complainant has to prove pursuant to paragraph 2 of the Policy that, on the balance of probabilities²:

"a. (i) [it] has Rights in respect of a name or mark which is identical or similar to the Domain Name; and,

¹ See the Experts' Overview at http://www.nominet.org.uk/sites/default/files/drs_expert_overview.pdf in relation to the without prejudice rule, and the Appeal Decision in DRS 00389 (scoobydoo.co.uk).

² I.e. on the basis that the Complainant's case is more likely than not to be the true version, see <http://www.nominet.org.uk/disputes/drs/legalissues/>.

(ii) The Domain Name, in the hands of the Respondent, is an Abusive Registration.”

6.2 Addressing each of these limbs in turn:

i) Rights in respect of a name or mark which is identical or similar to the Domain Name

6.3 The Expert considers that, for the reasons set out below, the Complainant has Rights in the Names/Marks as understood by the Policy.

6.4 Paragraph 1 of the Policy defines 'Rights' as:

“[...] rights enforceable by the Complainant, whether under English law or otherwise, and may include rights in descriptive terms which have acquired a secondary meaning;”

also, the Complainant must have the Rights at the time of the complaint.³

6.5 The Expert notes that, as referred to by the Complainant and summarised at paragraphs 4.2 and 5.1 above, the Complainant is the proprietor of a number of well-known trade marks in respect of the Names. The Expert considers that, through the Complainant's longevity in the market place, reputation and sales, it has also developed considerable goodwill and reputation in those Names.

6.6 Further, and in agreement with the Complainant, on the balance of probabilities the prefix 'new' and the suffix 'finance' are descriptive elements in the Domain Names and do not sufficiently distinguish the Domain Names from the respective Names/Marks. That prefix and suffix should be discounted from the consideration of whether or not the Domain Names are identical or similar to the Complainant's Names/Marks.

6.7 Given those factors, the Expert considers that, at the time of the Complaint, the Complainant had Rights in the Names/Marks which all are at least similar to one or more of the Domain Names. In concluding the above, the Expert has also disregarded the domain suffix 'co.uk' and the hyphens.

6.8 Thus, noting the fact that the requirement to demonstrate 'Rights' is not a particularly high threshold (Nominet appeal panel decision, *Seiko-shop* DRS 00248), the Expert considers that the evidence before him is sufficient to establish that, at the time of the Complaint, the Complainant had relevant Rights in relation to each of the Domain Names, as follows:

Domain Name	Rights (registered trade mark and/or passing off rights)
<i>evoque-finance.co.uk</i>	EVOQUE

³ See, for example, Nominet Appeal decision, *ghd*, DRS No. 03078, at page 9, para 9.2.2.

<i>land-rover-evoque.co.uk</i>	LAND ROVER + EVOQUE
<i>landrover-evoque.co.uk</i>	LAND ROVER + EVOQUE
<i>new-defender.co.uk</i>	DEFENDER
<i>new-landrover-defender.co.uk</i>	LANDROVER + DEFENDER
<i>new-landrover.co.uk</i>	LANDROVER
<i>newlandrover-defender.co.uk</i>	LANDROVER + DEFENDER

ii) *Abusive Registration*

6.9 For the reasons set out below, the Expert considers that the Domain Names are Abusive Registrations as understood by the Policy.

6.10 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 has taken unfair advantage of or has been unfairly detrimental to the Complainant’s Rights;”

6.11 *In relation to i. above* – the Expert considers that the Domain Names were Abusive Registrations at the time the Domain Names were registered.

6.12 The Policy, at paragraph 3, sets out a non-exhaustive list of factors which may be evidence that the Domain Names are Abusive Registrations. Specifically, the Expert considers that the factor set out at paragraph 3 a. i. A., as referred to by the Complainant, is relevant. Namely, where the Respondent has registered the Domain Names primarily *"for the purposes of selling, renting or otherwise transferring the Domain Name to the Complainant or to a competitor of the Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly associated with acquiring or using the Domain Name."*

6.13 The Expert also considers that the factors set out at paragraph 3 a. i. C., which refers to where the Respondent has registered the Domain Names primarily *"for the purpose of unfairly disrupting the business of the Complainant"*, and at paragraph 3 a. i. B., which refers to where the Respondent has registered the Domain Names primarily *"as a blocking registration against a name [...] in which the Complainant has Rights"* are also relevant.

- 6.14 In relation to the above factors, the Respondent's knowledge of the Complainant when registering the Domain Names needs to be shown.⁴ In this regard, the Expert notes the Respondent's submission that he is a Land Rover "enthusiast" and that he was "aware of the proposed new launches of models by" the Complainant. Given that, and also the Complainant's considerable goodwill and reputation in the Names/Marks, the Expert considers that the Respondent would have been well aware of the Complainant and the Names/Marks at the time of his registration of the Domain Names.
- 6.15 In relation to the factor at paragraph 3 a. i. A., the Respondent submitted that he chose to register the Domain Names to set-up various discussion forums/blogs about the Complainant's vehicles, in this way he submitted that he had made "fair use" of the Domain Names (as understood by paragraph 4. b. of the Policy). He stated that he did this because such forums "generate a large number of Internet hits and as such become commercially attractive due to things such as click per view revenue." The Respondent then gave the sale of the website "Pprune" to Internet Brands for USD\$1.5 as an example of such a forum being sold.
- 6.16 However, the Expert does not consider that any evidence has been provided by the Respondent to support his bald assertion that his intention at the time of registration of the Domain Names was to set up such discussion forums/blogs. For example, the Expert would have expected to see webpage print-outs of such subsequent use of the Domain Names, but none have been provided.
- 6.17 Also, the Expert considers relevant that, if the Respondent genuinely intended to set up a discussion forum/blog site for the Complainant's vehicles, he would have chosen to register domain names which were clearly distinct from the Complainant by using different names or at least would have set out clearly that the domain names were to be used as forums/blogs (e.g. by using the word "forum" or "blog" in the domain name). Instead, he in effect registered the Complainant's Marks/Names as the Domain Names.⁵
- 6.18 Indeed, in relation to the first part of the factor at paragraph 3 a.i.A. of the Policy, the Expert considers that, on the balance of probabilities, it is very apparent that the Respondent chose the Domain Names specifically for their onward sale value to either the Complainant or its competitors.
- 6.19 In this regard, the Expert notes that the Respondent put the Domain Names - *new-landrover.co.uk*, *new-defender.co.uk*, *new-landrover-defender.co.uk* - up for sale via eBay for £45,000, using the Complainant's logo and pictures of the Complainant's cars as part of the advert. The Expert also notes from the print-out of the Respondent's eBay offering provided by the Complainant, that the Respondent's eBay webpage was

⁴ Based on previous DRS decisions (e.g. DRS appeal decision *verbatim.co.uk* (DRS 4331)).

⁵ For further discussion as to the naming of tribute/criticism sites, see the appeal decision in DRS 06284 (*rayden-engineering.co.uk*).

“Last updated on 03 Sep, 2012”, meaning that the offering was in place at most less than five months after the registration of those Domain Names.

- 6.20 Further, the Respondent stated on the eBay page he set up to sell the aforementioned Domain Names that “[b]y using leading Search Engine Optimisation [...] these superb domain names can be Optimised [...] giving your business the very best pole position to take advantage of new vehicle sales.”
- 6.21 In addition, the Respondent mentioned in the Correspondence to making several of the Domain Names “available for sale for some time” and that “interest had been expressed in several of the Domain Names by a range of parties including garages and enthusiasts.”
- 6.22 As to the second part of the factor at paragraph 3 a. i. A. of the Policy, that the Domain Names had been offered for “*valuable consideration in excess of the Respondent’s documented out-of-pocket costs*”, the Expert notes that the Respondent submitted that he had “paid considerable fees in relationship to the development” of the forums, and attempted to informally “mediate this matter with the Complainant by making an offer to sell the Domain Names back at a price that would have covered his out of pocket expenses.”
- 6.23 However, no evidence has been brought forward by the Respondent to itemise the amounts he had already spent acquiring and using the Domain Names beyond the normal annual Nominet registration fee. The Expert considers that the sum of £6,000 the Respondent offered to sell the Domain Names to the Complainant for, being near £1,000 for each domain name, is by a considerable margin “*in excess of the Respondent’s documented out-of-pocket costs directly associated with acquiring or using the Domain Name.*”
- 6.24 Therefore, on the balance of probabilities, the Expert considers that the Respondent specifically chose the Domain Names in order to sell them back to the Complainant (or a competitor of the Complainant) for valuable consideration in excess of his documented out-of-pocket costs directly associated with acquiring or using the Domain Name (as per paragraph 3 a. i. A. of the Policy).
- 6.25 In addition, the Expert considers that the Domain Names were registered “*for the purpose of unfairly disrupting the business of the Complainant*” (as per paragraph 3 a. i. C. of the Policy). As mentioned previously, the Expert considers that the Respondent specifically chose the Domain Names to sell them either to the Complainant or the Complainant’s competitors. If the Domain Names were sold to the Complainant’s competitors, those competitors would use the Complainant’s reputation and goodwill in the Domain Names to generate web traffic to their websites linked to the Domain Names.
- 6.26 The Expert also considers that such registrations were intended as a blocking registration (as per paragraph 3 a. i. B. of the Policy) whereby the Complainant would be unable itself to register the Domain Names, thus

putting pressure on the Complainant to purchase the Domain Names from the Respondent.

- 6.27 Therefore, for the reasons set out above, the Expert considers that the registration of the Domain Names took unfair advantage of, and/or was unfairly detrimental to, the Complainant's Rights.
- 6.28 In relation to (ii) above – the Expert also considers that the Domain Names were Abusive Registrations through their use by the Respondent.
- 6.29 The Expert considers paragraph 3 a. ii. of the Policy as relevant, whereby a factor which may be evidence that the Domain Names are Abusive Registrations is:

“Circumstances indicating that the Respondent is using or threatening to use the Domain Name in a way which has confused or is likely to confuse people or businesses into believing that the Domain Name is registered to, operated or authorised by, or otherwise connected with the Complainant;”

- 6.30 The Respondent, in his submission, stated that there was "never any intention to try to place Land Rover at disadvantage or to pass off its registered trade names or marks." However, as mentioned previously, the Respondent put certain of the Domain Names up for sale through eBay shortly after registering them, using the Complainant's logo and pictures of the Complainant's cars as part of that advert. From that advert, and for the reasons previously mentioned above at paragraphs 6.17 to 6.21 above, it is apparent to the Expert that the Respondent was intending to sell the Domain Names either to the Complainant or one of its competitors.
- 6.31 Also, on the 18 September 2013, the Expert accessed the website homepages connected to the Domain Names. He noted that the websites connected to – *new-landrover-defender.co.uk*, *new-landrover.co.uk*, *newlandrover-defender.co.uk* – were being used through 123-reg as parking sites for website links to the Complainant's competitors (e.g. the manufacturers of the Nexus 7 and BMW 5 vehicles).
- 6.32 The Expert considers that the Respondent's use of the websites connected to the stated Domain Names as parking sites, and the threat of selling the Domain Names to the Complainant's competitors for their use, would mean that anyone subsequently accessing the websites to those Domain Names would likely be confused, at least initially,⁶ into thinking that those websites are the Complainant's or are somehow associated with the Complainant.
- 6.33 The Expert is not persuaded by the argument that a person accessing those websites would soon realise their mistake: the damage to the Complainant's business would have already been done. Those persons

⁶ For a discussion of the concept of 'initial interest confusion' and recent case-law, please see the English High Court judgment in *OCH-ZIFF MANAGEMENT EUROPE LIMITED and others v OCH CAPITAL LLP and others* [2010] EWHC 2599 (Ch). See also the DRS Experts' Overview at paragraph 3.3.

accessing the websites would have only done so because of the Complainant's goodwill and reputation in the Names/Marks.

- 6.34 The Expert considers that, by using the Domain Names as parking sites or by seeking to sell the Domain Name to the Complainant's competitors who would likely then use them to generate web traffic to their websites, the Respondent has taken unfair advantage of the Complainant's Rights.
- 6.35 Such use of the Domain Names as described above is also unfairly detrimental to the Complainant's Rights as the Complainant is likely to have lost potential sales as a consequence of the confusion through web-users clicking through to competitors' websites.
- 6.36 As mentioned previously, the Respondent seeks to rely on the factor at paragraph 4. b. of the Policy which states that fair use of the Domain Names may include websites attached to the Domain Names that are operated solely in tribute to or in criticism of a person or business.
- 6.37 However, and as discussed at paragraphs 6.16 and 6.17 above, the Expert considers that there is no evidence before him that the Domain Names were used solely for discussion forums/blogs for the Complainant and its goods/services.
- 6.38 Finally, the Expert notes that, although the Respondent's threat in its 3 June 2013 letter to go to "media organisations" if the Complainant pursued its claim is not in itself evidence that the registration or use of the Domain Names were abusive, it certainly does nothing to support the Respondent's defence of the complaint, since it seeks to dissuade the Complainant from taking action by a threat, rather than through a reasonable explanation of a *bona fide* purpose for which the Domain Names are being used.
- 6.39 Thus, the Expert considers that the Respondent's use of the Domain Names in the ways described above, has taken unfair advantage of, and/or was unfairly detrimental to, the Complainant's Rights.

7. Decision

- 7.1 The Expert finds that, on the balance of probabilities, the Complainant has Rights in respect of Names/Marks which are at least similar to each of the Domain Names and that the Domain Names in the hands of the Respondent are all Abusive Registrations. Therefore, the Expert directs that the Domain Names be transferred to the Complainant.

Signed: Dr Russell Richardson

Dated: 3 October 2013