

# **DISPUTE RESOLUTION SERVICE**

**D00019159**

**Decision of Independent Expert**

**(Summary Decision)**

**RAC Brand Enterprises LLP**

and

**Mr R Woods**

## **1. The Parties:**

Lead Complainant: RAC Brand Enterprises LLP  
RAC House  
Brockhurst Crescent,  
Walsall  
WS5 4AW  
United Kingdom

Complainant: RAC Motoring Services  
RAC House,  
Brockhurst Crescent  
Walsall  
WS5 4AW  
United Kingdom

Respondent: Mr R Woods  
Lollipop Cottage, 74 Columbia Road  
Bournemouth  
BH10 4DX  
United Kingdom

**2. The Domain Name:**

therac.co.uk

**3. Notification of Complaint**

I hereby certify that I am satisfied that Nominet has sent the complaint to the Respondent in accordance with sections 3 and 6 of the Policy.  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 therac.co.uk 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)**

The Complainant has not really produced any or any sufficient evidence of its Rights as defined by the DRS Policy. The Experts' Overview version 2 published in November 2013 contains a useful summary of Decisions made by Experts under the Nominet DRS Policy. At paragraph 2.2 it deals with what evidence a complainant must

produce to show that it has sufficient Rights. As it says, “bare assertions will rarely suffice”.

The Complainant asserts that there is a registered trademark, but no certificate has been produced: at a very basic level, I am unable to verify whether the Complainant is the correct party as being the owner of the trade mark or having a licence under it.

The Complainant also asserts its unregistered trademark rights, but the Complainant has not produced any evidence at all to substantiate its assertions. As the Experts’ Overview states at paragraph 2.2, I would need to see some evidence of use of the mark or name said to constitute Rights over a not insignificant period and to a not insignificant degree and, furthermore, I would need to see evidence of how the name or mark is recognised by the trade or public as indicating the Complainant’s services in particular. The Complaint asserts that “the names “RAC” and “The RAC” are interchangeable in the minds of the public and are both recognisable by the purchasing trade/public as indicating the services of the RAC Motoring Services ...”: however, there is absolutely no evidence at all in front of me to support these assertions. They may well all be true, but the Complainant has not produced evidence to support them.

Nominet’s DRS Policy is an evidence-based procedure, and it is the Complainant’s responsibility to justify its assertions by appropriate evidence.

There being no evidence of the Complainant’s Rights, it is not possible to find an Abusive Registration.

## **8. Decision**

I refuse the Complainant’s application for a summary decision. The domain name registration will therefore remain with the Respondent.

Signed: Richard Stephens

Dated: 22 September 2017