

DISPUTE RESOLUTION SERVICE

D00019408

Decision of Independent Expert

Andrew Cooper and Daemonlinks Ltd

and

Mr Timothy Crooke

1. The Parties:

Lead Complainant: Andrew Cooper
c/o 19 Beaumont Street
London
W1G 6DG
United Kingdom

Additional Complainant: Daemonlinks Ltd
c/o 19 Beaumont Street
London
W1G 6DG
United Kingdom

Respondent: Mr Timothy Crooke
6 Grosvenor Street
Wallasey
Liscard
Merseyside
CH44 1AG
United Kingdom

2. The Domain Names:

daemonlinks.co.uk
daemonlinks.me.uk
daemonlinks.org.uk
daemonlinks.uk

3. Procedural History and Procedural Matters:

3.1 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 a such a nature as to call in to question my independence in the eyes of one or both of the Parties.

3.2 Timeline

On 13 October 2017, the dispute was received. The Complaint was validated on 17 October 2017 and notification of the Complaint was sent to the Parties. On 2 November 2017, the Response was received and notification sent to the Parties.

On 7 November 2017, a reply reminder was sent. The Reply was received on 9 November 2017 and notification of such Reply was sent to both Parties on the same day. On 14 November 2017, Nominet appointed a mediator and mediation started. By 29 January 2018, mediation had failed and the close of mediation documents were sent to the Parties. On 1 February 2018, payment for an Expert decision was received and on 5 February 2018 the Expert, Ravi Mohindra, was appointed.

3.3 For the purposes of this Decision, references to the “**Complainant**” shall be to the Lead Complainant, and “**Complainants**” shall mean, together, the Lead Complainant and the Additional Complainant.

4. Factual Background

4.1 The Complainant is a director and majority shareholder in the Additional Complainant, a company incorporated in England & Wales on 11 January 2017 with registration number 10558128.

4.2 The Additional Complainant is the owner of a United Kingdom trade mark registration for a series of 3 marks, comprising (i) the words marks DAEMONLINKS and Dæmonlinks, and (ii) a stylised Dæmonlinks mark, under registration number 3228896, effective as of 4 May 2017 and registered in respect of classes 9 and 42.

4.3 The Complainant is the registrant of the domain name <daemonlinks.com> and has been since January 2007.

4.4 Since January 2013, the website located at <daemonlinks.com> has provided news and media aggregation services to its users on user-selected subjects (**the “DL Website”**). The DL Website is free to access and sources content from various other websites and social media services (Facebook, Twitter, Google+) in accordance with the user’s preferences, presenting the content found in a chronological format.

- 4.5 The Respondent registered the <daemonlinks.co.uk> Domain Name on 9 May 2016 and the remaining Domain Names on 20 September 2016. The Respondent is also the registrant of the domain name <dæmonlinks.com> which was registered on 8 May 2016.
- 4.6 The <daemonlinks.co.uk> Domain Name resolves to a website which refers to the <daemonlinks.com> domain name and criticises and comments on the activity of the DL Website as well as those connected to it.
- 4.7 The remaining Domain Names automatically redirect to the website located at the <daemonlinks.co.uk> Domain Name.

5. **Parties' Contentions**

Expert's Introductory Comments

- 5.1 Large parts **of the Parties'** submissions and associated evidence focus on the online and social media activity of the other(s), particularly with respect to allegations of abuse and criticism being directed by the Respondent towards the Complainant and those associated with the Complainants. The Respondent has made counter-allegations in his submissions, in particular regarding the behaviour of the Complainants and harassment of the Respondent by the Complainant. A significant number of these allegations follow from activity by each of the Parties on websites and social media platforms unrelated to the Domain Names.
- 5.2 This dispute in respect of the Domain Names has been brought by the Complainants under the DRS Policy and must therefore be decided under the terms of this Policy. Accordingly, the focus of the Decision has to be on establishing whether or not both of the limbs of the Policy (Rights and Abusive Registration) are met in relation to the Domain Names. Any other disputes between the Parties, that do not fall within the Policy as it relates to the Domain Names, cannot be resolved by this Decision and the Parties must look to relevant other forums should they wish to resolve these.

The Complainants - Rights

- 5.3 The Additional Complainant is the owner of a United Kingdom trade mark registration for a series of 3 marks as more particularly described in paragraph 4.2 above.
- 5.4 The Complainant is the registrant of the domain name <daemonlinks.com> and has been since January 2007. The Complainants say that this domain name has resolved to a website which has been operational since 27 January 2007. The Complainants

assert that the Additional Complainant has acquired substantial **goodwill and rights in the distinctive “Daemonlinks” name prior to** its series trade mark being registered.

- 5.5 The Complainants state that the Additional Complainant operates and has developed the technology used by the DL Website and the services offered through that site. The Additional Complainant was established to assume and continue the business of the DL Website.
- 5.6 The Complainants assert that the DL **Website and the “Daemonlinks”** name have gained a substantial reputation and goodwill, with the DL Website having over 2,600 subscribers and (typically) around 300 concurrent users at any time. The Complainants also assert that the **“Daemonlinks” name is unusual and distinctive, which is accentuated** by the colour scheme used on the DL Website.

The Complainants – Abusive Registration

- 5.7 For reasons that are unknown to the Complainants, the Respondent has a strong dislike for the DL Website and those associated with it including the Complainant. The Complainant says that he has never met or spoken to the Respondent.
- 5.8 As part of the **Complainants’ business operated under the “Daemonlinks” name, the Complainant has sponsored various** individuals to create and post various videos and blog entries online, **including using the “Daemonlinks” name. The Complainants allege that** the Respondent exchanged posts online with two of these individuals and Daemonlinks in 2016 which ultimately resulted in a disagreement, following which the Domain Names were registered.
- 5.9 The Complainants contend that whilst no use has been made of the <daemonlinks.uk>, <daemonlinks.me.uk> and <daemonlinks.org.uk> Domain Names, the website to which the <daemonlinks.co.uk> Domain **Name resolves (the “Respondent’s Website”) is** and always has been dedicated solely to using false accusations to denigrate and insult both the DL Website and those behind it under the guise of trying to distinguish itself from the DL Website. By continuing to include the term **“Daemonlinks”, the Respondent (through the Respondent’s Website) makes unauthorised use of the Complainants’ trade marks and deliberately disparages the Complainants’** Daemonlinks business.
- 5.10 The Complainants assert that the Respondent was aware of the **Complainants’ Daemonlinks business** at the time that he registered the Domain Names by making a Google+ post on 23 January 2016 (exhibited to the Complaint) in which the Respondent references the **name “Daemonlinks”**.
- 5.11 The Complainants contend that the Respondent is the registrant of numerous other domain names including <catdeeley.com> (the name

of a celebrity with whom the Respondent has no association) and customarily adopts the user name of TheHelpfulTroll on various social media platforms.

- 5.12 The Complainants contend that the Respondent has used the <daemonlinks.co.uk> Domain Name and other registrations to enable **him to obtain various 'Daemonlinks'**-named social media accounts, notably with Google+ and YouTube. The Complainants say that these accounts cause confusion between the DL Website and the website to which the <daemonlinks.co.uk> Domain Name resolves to.
- 5.13 The Complainants assert that the <daemonlinks.co.uk> Domain Name **is identical to the name of the Complainants' business and thus creates** initial interest confusion. In addition, the Complainants allege that the Respondent is well aware that posts by and on accounts and websites that compete in name will confuse both search rankings and other internet users as to who is responsible for the content/sites, and that **this will lead to internet users being misdirected to the Respondent's** website located at the <daemonlinks.co.uk> website, thus further publicising the insulting and untrue allegations made on that site.
- 5.14 The Complainants contend that the Respondent has repeatedly used **the 'Daemonlinks' name and his 'Daemonlinks' named social media** accounts to make thousands of publically available posts, many of which are (i) directed towards the Complainant, the service offered by the DL Website and/or those associated with it and (ii) abusive, untrue, insulting and/or harmful to the reputation of the Complainant and the **Complainants' 'Daemonlinks' brand**.
- 5.15 **The Respondent's activity as described above, say the Complainants, is unfairly detrimental to their rights in the 'Daemonlinks' name** and is unfairly disrupting the **Complainants' business**.
- 5.16 **Since becoming aware of the Respondent's (i) registration of the** Domain Names and (ii) Google+ accounts and postings, the Complainant has complained to both the Police and Google. As a result, Google have suspended some accounts and removed certain posts and videos from YouTube. However, the Respondent has since registered new accounts with similar names and has also commenced using Twitter to post abusive messages. The Complainants believe that whilst the Respondent is the registrant of the Domain Names he will continue to use the Domain Names to obtain and use new confusing and damaging social media accounts if others are removed or suspended.
- 5.17 The Complainants contend that since becoming aware of the Additional **Complainant's registered trade mark rights**, the Respondent has offered the Domain Names for sale through Twitter and his Google+ account postings. In addition, the Complainants say that the Respondent posted on Twitter to state "*You will NEVER own the*

domains". **The Complainants** assert that whilst this statement is not explicitly directed at the Complainants, the indication that the Domain Names are not for sale in a bona-fide manner reflects the abusive nature of their initial registration and the intent to prevent the Complainant from registering them.

- 5.18 **In view of the Complainants' rights in the 'Daemonlinks' name, it is clear that the Domain Names are unlikely to be capable of being used in a legitimate manner without infringing the Complainants' trade mark rights or causing confusion with the Complainants' 'business operated under the Daemonlinks' name.**

The Respondent

- 5.19 The Respondent alleges that the DL Website is an ip2 darknet gateway and that the Complainant has organised for the Respondent to be gang stalked including by posting libellous material on, inter alia, various social media platforms and sites, which the Respondent says has caused him alarm, stress, harassment and possible serious harm.
- 5.20 **The Respondent contends that one of the Complainant's associates, Ms Brown, says that she has never worked for the DL Website and had blocked access to it as it had disturbed her mental health. In addition, the Respondent denies the Complainant's contention that he has not simply sponsored others to post material on the DL Website but has, according to the Respondent, employed at least one of them.**
- 5.21 The Respondent claims that the Complainant is acting with dishonesty in bringing his claim. He alleges that the Complainant is supporting **'neo-nazi' movements and that various screenshots exhibited to the Response prove that the Complainant is misusing and abusing the use of his websites for malicious threats and criminal activity by others, including his employees, for which the Respondent says he has a valid crime reference number from Merseyside Police.**
- 5.22 The Respondent claims that the Complainants have also created websites under the domains <timcrooke.com> and <thehelpfultroll.co.uk> to harass the Respondent.
- 5.23 The Respondent asserts that all of the claims he has made are true and that his websites are used to make fair comment and criticism of the Complainant and his employees.
- 5.24 The Respondent says that the Complainant registered the **'Daemonlinks' name and the Additional Complainant was incorporated after the Respondent registered the Domain Names, in an attempt to mislead and cover-up the Complainant's dishonesty.**
- 5.25 The Respondent contends that the Complainant has allowed his websites to be used with **the Complainant's** full knowledge to harass &

threaten people, and that as a result it is in the public interest to highlight and fairly criticise the gang stalking by the Complainant and his associates.

The Complainant's Reply

- 5.26 The Complainants consider much of the Response and materials put forward by the Respondent to have little relevance to the matters complained of, and they suggest that in some instances the exhibits **provided support the Complainants' position** – for example, instead of showing behaviour by the Complainant worthy of criticism, some of the exhibits highlight complaints by others associated with the Complainant about the behaviour of the Respondent.
- 5.27 **Despite the Respondent's repeated allegations of criminal behaviour**, the Complainants say that they were previously unaware of any complaint to the Police and have not been approached by the Police. In any event the Complainants say that they doubt the veracity of the claim and note that neither it nor any of the **Respondent's other** accusations of criminal behaviour by the Complainants have been supported by any evidence.
- 5.28 Although the Respondent claims the website located at the Domain Name <daemonlinks.co.uk> **has been used for "fair criticism and comment" of the Complainants and their 'Daemonlinks' business, the** Complainants say that neither the present version of that website nor any previous version has made any attempt at doing anything more than insult (rather than criticise) those associated with the Complainants, and/or damage their reputation by false and misleading accusations. The Complainants assert that **the Respondent's** website has contained no content beyond bald assertion of criminal activity and insults.
- 5.29 The Complainants note that the Respondent has not denied the complained about behaviour, in particular using the Domain Names to obtain the confusingly similar social media accounts and deliberate attempts to cause harm to the Complainants' business.
- 5.30 The Complainants say that the Respondent chose to register the Domain Names at least partly because of the goodwill and recognition of the 'Daemonlinks' brand in order to trade off the opportunity offered by people mistakenly entering <daemonlinks.co.uk> into their browser instead of <daemonlinks.com>. In addition, the Respondent has been able to gain social media accounts through the confusing name. The Respondent has continued to use the website for abusive purposes despite being aware of the Additional Complainant and its trade mark registration.

6. Discussions and Findings

General

- 6.1 For the Complainant to succeed with its Complaint it is required under paragraph 2.2 of the Policy to prove to the Expert, 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.

Complainants' Rights

- 6.2 Paragraph 1 of the Policy provides that Rights means "*rights enforceable by the Complainant, whether under English law or otherwise, and may include rights in descriptive terms which have acquired a secondary meaning*". Rights may be established in a name or mark by way of a trade mark registered in an appropriate territory, or by a demonstration of unregistered so-called 'common law rights'.
- 6.3 Further, it is well accepted that the question of whether the Complainant has Rights falls to be considered at the time that the Complainant makes its Complaint and is a test with a low threshold to overcome.
- 6.4 **A number of the Complainants' submissions on this topic are unsupported by evidence.** In particular, the Complainant asserts that **he acquired substantial goodwill and rights in the 'Daemonlinks' name prior to the 'Daemonlinks' trade mark being registered, presumably as a result of the use that the Complainants say they have made of the DL Website (operating under the 'Daemonlinks' name).** In addition, the **Complainants say that the name 'Daemonlinks' is unusual and distinctive.**
- 6.5 However, not only has the Respondent not denied or otherwise challenged these assertions, the Complainants have provided evidence that the Additional Complainant is the owner of a registration for a series trade mark in the UK (where the Respondent is located) which **includes the word mark "DAEMONLINKS"**.
- 6.6 In addition, the Complainant has been the owner of the domain name <www.daemonlinks.com> since January 2007 and the Additional Complainant was incorporated under the name Daemonlinks Limited on 11 January 2017. I accept that the Complainants have operated a website under the <daemonlinks.com> domain name since at least 2013, a number of years prior to the registration of the Domain Names by the Respondent.

- 6.7 The Domain Names incorporate the ‘**Daemonlinks**’ mark in its entirety (which for the purposes of this Decision also includes the ‘**Dæmonlinks**’ mark given that it is virtually identical to an English internet user to the ‘**Daemonlinks**’ mark) and only differ by the inclusion of the respective generic co.uk, .uk, .org.uk and .me.uk top level suffixes. These can be ignored when assessing whether or not the Domain Names are identical or similar to the name or mark in respect of which the Complainants have Rights.
- 6.8 I therefore find that the Complainants have established that they have Rights in respect of the “**DAEMONLINKS**” mark and that this mark is identical to each of the Domain Names. Accordingly, the Complainants have satisfied the first limb of the Policy with respect to each of the Domain Names.
- 6.9 For the sake of completeness, I will also deal with the Respondent’s claims that the ‘**Daemonlinks**’ trade mark was registered after the Respondent registered the Domain Names, in an attempt to somehow mislead and prevent fair comment and criticism. Although the Respondent contends otherwise, it does not matter that the trade mark was registered after registration of the Domain Name. The establishment of “rights” is assessed as at the date of filing the Complaint. The fact that a domain name pre-dates a trade mark is **potentially relevant when considering the Respondent’s state of mind** in connection with abusive registration (and I will deal with this point below) but it does not arise in relation to this first limb of the Policy.

Abusive Registration

- 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 took unfair advantage of or **has been unfairly detrimental to the Complainant’s Rights**.*
- 6.11 Paragraph 5 of the Policy sets out a non-exhaustive list of factors which may be evidence that the Domain Name is an Abusive Registration. The factors under Paragraph 5 on which the Complainants rely are as follows:
- “5.1.1 Circumstances indicating that the Respondent has registered or otherwise acquired the Domain Name primarily:*
- 5.1.1.1 as a blocking registration against a name or mark in which the Complainant has Rights; or*

5.1.1.2 for the purpose of unfairly disrupting the business of the Complainant;

5.1.2 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;

6.12 Paragraph 8 of the Policy sets out a non-exhaustive list of factors which may be evidence that a Domain Name is not an Abusive Registration. The factor under paragraph 8 on which the Respondent relies is as follows:

“8.1.1.3 *Before being made aware of the Complainant's cause for complaint (not necessarily the "complaint" under the DRS), the Respondent has made legitimate non-commercial or fair use of the Domain Name;*

8.2 Fair use may include sites operated solely in tribute to or in criticism of a person or business."

6.13 As noted **above, a number of each of the Parties' submissions in this case focus on disputes between them regarding their online activity and how that activity has been directed towards, and affected, the other(s). To the extent that such submissions do not directly or indirectly relate to (i) the Domain Names and (ii) the registration of the Domain Names and/or the use being made of them, they are not relevant to the issue of whether or not the Domain Names are Abusive Registrations. As stated by the Appeal Panel in DRS 06284 (rayden-engineering):**

"the DRS is intended to be a relatively simple, low cost and efficient system for resolving domain name complaints. The system does not contemplate a detailed analysis of factual disputes or the forensic weighing up of conflicting accounts..."

6.14 **The main focus of the Complainants' contentions on the issue of Abusive Registration is that the Respondent registered the Domain Names with full knowledge of the Complainants at those times, and that, by including the 'Daemonlinks' name in each of them, the registration of these names took unfair advantage of or was unfairly detrimental to the Complainants' Rights. In addition, the Complainant contends that the Respondent registered the Domain Names to unfairly disrupt the business of the Complainants and that the Respondent is using the <daemonlinks.co.uk> Domain Name to resolve to a website, the sole purpose of which is to denigrate and insult the DL Website and those behind it.**

- 6.15 The first issue to determine, given these contentions and this aspect of the Policy, is whether the Respondent knew, or is likely to have known, **of the Complainants' rights when it registered the Domain Names.**
- 6.16 It is clear to me, based on the submissions made by the Parties and for the reasons set out below, that the Respondent was very aware of the Complainants and their business operated **under the 'Daemonlinks'** name at the time that he registered the Domain Names.
- 6.17 **All of the Domain Names incorporate the 'Daemonlinks' mark and do not contain any other term which distinguishes the Domain Names from the Rights established by the Complainants.**
- 6.18 Whilst I accept that the Additional Complainant only obtained **registered trade mark rights in the 'Daemonlinks' name after the** Respondent registered the Domain Names, the Respondent does not deny that the Complainant has owned and operated a website under the <daemonlinks.com> domain name since 2007. In addition, the Respondent does not claim that the Domain Names refer to anyone or anything other than the Complainants. In this respect he states as **follows:** *"the websites I own are fair comment & criticism of the disgusting behaviour of Mr Cooper [the Complainant] & his employees"*.
- 6.19 In addition, the only evidence of use of the Domain Names is of the <daemonlinks.co.uk> Domain Name resolving to a website which expressly refers to the <daemonlinks.com> domain name (owned by the Additional Complainant). This website also contains critical **statements which refer to the Complainant's website operated under the <daemonlinks.com> domain name and the 'Daemonlinks' business - for example "Daemonlinks.com Pure Scum On The Net" and "Daemonlinks Scumbags of the year 2013, 2014, 2015, 2016, 2017"**.
- 6.20 Given (i) the inclusion of the Complainants' **'Daemonlinks' mark in the** Domain Names, (ii) the lack of any qualifying words which distinguish the Domain Names from the Complainants, (iii) there being no other explanation before me as to what else the Domain Names could be refer to other than to **the Complainants' 'Daemonlinks' business and** mark and (iv) the fact that at least one of the Domain Names is being used to resolve to a website which expressly refers to the <daemonlinks.com> domain name and associated website, I am satisfied that the Domain Names were chosen and registered by the Respondent with the Complainants in mind.
- 6.21 Turning now to the issue of confusion, I accept that an internet user **arriving at the Respondent's website would very quickly realise that in** fact the site has no connection with the Complainants, other than to criticise and disparage them.

6.22 However, given the identity between these Domain Names and the name in which the Complainants have Rights, I am satisfied that consumers searching online for the business **known as 'Daemonlinks'** and operated by the Complainants are likely to expect there to be some form of authorised connection between any website operated under these Domain Names and the Complainants, even before they arrive at the associated website (regardless of the state of that website) and so some initial interest confusion is likely. As stated in paragraph **3.3 of the Experts' Overview:**

*“Commonly, Internet users will visit web sites either by way of search engines or by guessing the relevant URL. If the domain name in dispute is identical to the name of the Complainant and that name cannot sensibly refer to anyone else, there is bound to be a severe risk that a search engine, which is being asked for the Complainant, will produce high up on its list the URL for the web site connected to the domain name in issue. Similarly, there is bound to be a severe risk that **an Internet user guessing the URL for the Complainant's web site will use the domain name for that purpose.***

In such cases, the speculative visitor to the registrant's web site will be visiting it in the hope and expectation that the web site is a web site “operated or authorised by, or otherwise connected with the Complainant.” This is what is known as ‘initial interest confusion’ and the overwhelming majority of Experts view it as a possible basis for a finding of Abusive Registration, the vice being that even if it is immediately apparent to the visitor to the web site that the site is not in any way connected with the Complainant, the visitor has been deceived. Having drawn the visitor to the site, the visitor may well be faced with an unauthorised tribute or criticism site (usually the latter) devoted to the Complainant; or a commercial web site, which may or may not advertise goods or services similar to those produced by the Complainant. Either way, the visitor will have been sucked in/deceived by the domain name.”

6.23 The fact that the Respondent has included a disclaimer on his site, albeit in disparaging terms, does not preclude a finding of initial interest confusion in respect of the <daemonlinks.co.uk> Domain Name. By the time that a user sees the disclaimer, or realises from the content of the website that it is not operated or authorised by the Complainants, the damage has been done and the advantage sought by the Respondent has been achieved.

6.24 This is not, however, the end of the matter. As noted above, there are various ways in which a respondent is able to prove that the domain name(s) in dispute under the DRS are not Abusive Registrations.

6.25 The next issue that I need to consider in this respect, given (i) the nature of the <daemonlinks.co.uk> Domain Name, (ii) the particular use to which that Domain Name is being put and (iii) **the Respondent's**

contentions, is whether a criticism site necessarily constitutes fair use (as referred to in paragraphs 8.1.1.3 and 8.2 of the Policy) unless proved otherwise.

- 6.26 **Paragraph 4.9 of the Experts' Overview deals with this particular question and it states (inter alia, quoting only those sections of that paragraph which directly relate to the dispute before me):**

“No. Paragraph 8.2 of the Policy provides that “Fair use may include sites operated solely in tribute to or in criticism of a person or business”. Note the use of the words “may” and “solely”– it will depend on the facts.

Note also that the use of the word “may” means that even if a site is operated solely as a tribute or criticism site it is still open to the Expert to find that it is abusive. In assessing the fairness or otherwise of the use, the Expert needs to have regard to both the nature of the domain name in dispute and its use. Some decisions in the past have concentrated solely upon whether the site fairly pays tribute to or criticises the Complainant (often a very difficult thing for an expert to assess in a proceeding of this kind).

The appeal decision in DRS 06284 (rayden-engineering.co.uk) confirmed the consensus view among experts today that the nature of the domain name is crucial to the exercise. A criticism site linked to a domain name such as <lhateComplainant.co.uk> has a much better chance of being regarded as fair use of the domain name than one connected to <Complainant.co.uk>. The former flags up clearly what the visitor is likely to find at the site, whereas the latter is likely to be believed to be a domain name of or authorised by the Complainant. But, again, note the decisions in DRS 08527 (ihateryanair.co.uk) and DRS 11271 (opticaexpressruinedmylife.co.uk) regarding commercial activity on criticism sites. Each case will depend upon its facts.

*In DRS 06284 (rayden-engineering.co.uk) the domain name was identical to the name in which the Complainant had rights. A modified name that made it clear that this was a protest site would presumably have been less successful in drawing the protest to the attention of customers of the Complainant. The Panel concluded there was a balance to be drawn between the right to protest (which could be effected via a modified name) and the Complainant's rights in its own name, and that in this case at least the latter outweighed the former. Note that the Panel did not rule that use of an identical name would always and automatically be unfair, but did conclude that it was only in exceptional circumstances that such use could be fair. The Panel declined to find that such exceptional circumstances existed in the **case in question.**”*

- 6.27 The <daemonlinks.co.uk> Domain Name is in the form of <complainant.co.uk> and it is clear that the website to which this

Domain Name resolves is being used to criticise the Complainants and their online activity. In essence, the Respondent has used a domain name which is exactly the same as the trading name of the Complainants without any indication in the Domain Name itself that it leads to a criticism website.

6.28 The Respondent claims (i) to have been harassed by the Complainant and certain other people who the Respondent claims to be connected with the Complainant, and (ii) that the Complainant is involved in certain criminal activity. The Respondent has submitted evidence which he says supports his claims and the Complainants have made certain denials of these claims as well as counter-allegations about the Respondent and his online activity.

6.29 Whilst I accept, based on the submissions made by the Respondent and the supporting evidence, that the Respondent may have some cause for distress in light of his allegations of online harassment made against him, I cannot (and do not) make any finding in respect of any such disputes. My role as an Expert of the DRS is to make a finding in respect of a dispute brought under and governed by the terms of the Policy. Whether or not the Respondent's criticisms of the Complainants (and vice versa) are justified is not determinative in relation to the issue of Abusive Registration. As stated by the Appeal Panel in DRS 06284 (*rayden-engineering.co.uk*):

"Although an Expert may in many cases form an impression as to whether the views expressed on a protest site are justified or true, we do not consider that in general the legitimacy of the use of a particular domain name should turn on such a judgement."

6.30 In this case, the Respondent has made use of the Domain Names, **which are identical to the Complainants' trading name, to attract visitors** to a website about the Complainants.

6.31 Whilst the Respondent argues that he is using at least one of the Domain Names to fairly comment on and criticise the Complainant and those associated with it, he could in fact have published those criticisms and comments by using any domain name which either did not include the Complainants' name or which included an additional element to make clear that the domain name was not associated with the Complainants but was being used for a third party criticism website. For example, the Respondent could have chosen a domain name in the form <avoiddaemonlinks.co.uk> or <ihatedaemonlinks.co.uk> to make it clear to internet users at the outset that any website operated under this domain would very likely be one which criticised the business or activity of the Complainants.

6.32 In addition, the Respondent does not deny that he has made use of the Domain Names to obtain various social media accounts using the **'Daemonlinks' name and on which he has posted material to abuse**

and insult the service provided on the DL Website and people associated with it.

- 6.33 For all of the reasons given above, and based on the admissibility, relevance, materiality and weight of the evidence as a whole, I am satisfied that the Domain Names were registered to take unfair advantage of, and are being used in a manner which is unfairly **detrimental to, the Complainants' Rights.**
- 6.34 Accordingly, the Complainants have succeeded in proving, on the balance of probabilities, that each of the Domain Names is an Abusive Registration in accordance with paragraph 2.1.2 of the Policy.

7. Decision

- 7.1 The Complainants have established that they have Rights in respect of a mark which is identical to each of the Domain Names and that each of the Domain Names, in the hands of the Respondent, is an Abusive Registration.
- 7.2 Accordingly, the Complaint succeeds and I direct that the Domain Names <daemonlinks.co.uk>, <daemonlinks.uk>, <daemonlinks.org.uk> and <daemonlinks.me.uk> be transferred to the Additional Complainant as requested under the Complaint.

Signed Ravi Mohindra

Dated 20 February 2018