

DISPUTE RESOLUTION SERVICE

D00008958

Decision of Independent Expert

Copart UK Limited

and

Doncaster Motor Spares Ltd

1. The Parties:

Lead Complainant: Copart UK Limited
Acrey Fields, Woburn Road
Wootton
Bedfordshire
MK43 9EJ
United Kingdom

Complainant: Copart Inc.
4665 Business Center Drive
Fairfield
United States

Respondent: Doncaster Motor Spares Ltd
Bentley Moor Lane
Adwick-Le-Street
Doncaster
S Yorks
DN6 7BD
United Kingdom

2. The Domain Name:

<copartdirect.co.uk>

3. Procedural History:

On 19 August 2010 at 14:05 the Complaint was received by Nominet UK.

On 20 August 2010 at 14:35 the Complaint was validated.

On 20 August 2010 at 14:36 a Notification of Complaint was sent to the Parties

On 14 September 2010 at 09:00 a Response was received by Nominet UK.

On 17 September 2010 at 14:12 a Notification of Response was sent to the Parties.

On 24 September 2010 at 10:47 a Reply was received by Nominet UK.

On 29 September 2010 at 10:57 a Notification of Reply was sent to the Parties.

On 29 September 2010 at 10:58 a Mediator was appointed.

On 4 October 2010 at 11:06 the Mediation commenced.

On 5 October 2010 at 15:16 the Mediation terminated.

On 5 October 2010 at 15:17 close of mediation documents were sent to the Parties.

On 20 October 2010 at 11:06 Expert decision payment received

4. Factual Background

The Lead Complainant, an English company (registered no. 929621) carries on a motor salvage remarketing business in the UK and is part of an international group of companies. The second named Complainant is a public corporation registered in California, USA (registration no. 94-2867490) and is the parent corporation of the Lead Complainant. Other companies within the group relevant to these proceedings are Copart Europe Limited (registered in England and Wales, no. 6200876) and Copart Ltd (registered in England and Wales, no. 160734). The Lead Complainant and its parent corporation are hereinafter together referred to as the "the Complainants".

The Complainants remarket motor salvage to its registered trade buyers exclusively by means of Internet auctions.

The Complainants have registered several trade marks and domain names containing the word "COPART".

In an annex to the Complaint, the Complainants have submitted by way of evidence of their ownership and use of the name COPART as a trade mark and business name:

- Copy of the United Kingdom Trade Mark COPART & Device Registration Certificate no. 2466325 registered in the name of the Lead Complainant in respect of motor vehicles, auctioneering of accident damaged and straight vehicles to trade buyers and recovery, storage of accident damaged vehicles on behalf of the insurance industry, collection, storage and recovery of vehicles on 11 April 2008;
- Copy printout from the Intellectual Property Office evidencing the details of the Community Trade Mark no. E5428041 registered in the name of the second named Complainant for Classes 35, 36 and 38 in the name of Complainant's parent corporation on 13 May 2008;
- Copy printout from the US Trademark Electronic Search System evidencing the details of the US Trademarks "COPART", "CI COPART", "COPART INC COM" and "CI COMPLAINANT SALVAGE AUTO AUCTIONS" registered in the name of the Complainant's parent corporation filed on 10 February 2010 and registered on 12 January 2010;
- Copy Companies House search results providing the details of the Lead Complainant and its associated companies Copart Ltd and Copart Europe Limited;
- Copy of "WHOIS" search results for the domain names copart.co.uk, copart.com, co-part.com, mycopart.com, mycopart.co.uk and copartdirect.com registered in the name of Complainant's parent corporation.

The Respondent has been trading in the UK for over 60 years and was incorporated as a company in 1962. The Respondent is engaged in the business of selling car parts and vehicles.

The disputed domain name <**copartdirect.co.uk**> was registered on 5 January 2009.

5. Parties' Contentions

Complainants' submissions in the Complaint

The Complainants request the transfer of the disputed domain name <**copartdirect.co.uk**> to the Lead Complainant.

The Complainants claim to have rights in the COPART name and trademark through their ownership of the above-listed trademark registrations and extensive use of the mark in trade.

The Complainants submit that the second named Complainant is a NASDAQ-listed Californian corporation with a yearly turnover of \$743 million, a primary sponsor in

both NASCAR and NHRA car racing and at the beginning of March 2010 it launched a TV show about selling vehicles through its online auction called “Sold in Seconds”.

The second named Complainant also sells vehicles through its online CopartDirect service and has submitted an extract from its annual report for the year 2009, together with various online articles by way of evidence of advertising and marketing activities and turnover.

The parent corporation has authorised the Lead Complainant to file complaints, make representations and otherwise act on its behalf in respect of DRS proceedings relating *inter alia* to the domain names <**copartfinder.co.uk**>, <**copartauction.co.uk**> and <**copartdirect.co.uk**>.

The Complainants submit that since the Lead Complainant was established in 2007, it has grown through the acquisition of several established British vehicle salvage businesses viz. Universal Salvage PLC, Century Salvage Sales Limited, AG Watson Auto Salvage & Motor Spares (Scotland) Limited, Simpson Bros. (York) Holdings Limited and D Hales Limited. The Lead Complainant claims to have grown to become the biggest vehicle salvage remarketing company in Europe facilitating the demands of several major motor insurance companies and other clients to collect vehicles within strict service levels throughout the whole of the UK and dispose of them on their behalf.

The Complainants operate more than 140 facilities throughout USA, Canada and the UK, out of which 15 facilities are based in the UK. They maintain both Facebook and Twitter racing pages and submit that they have more than 50,000 vehicles available for online bidding every working day.

The Complainants submit that the trade mark COPART is an integral part of the group’s intellectual property.

In April 1999 the second named Complainant registered a domain name <**copartfinder.com**>, under which it developed a website designed to locate spare parts for different vehicle specifications throughout the USA. There is a link on the website <**copart.com**> which directs the buyer to <**copartfinder.com**>. Following the Lead Complainant’s successful application against the Respondent in **Copart UK Limited v Doncaster Motor Spares Limited** (DRS 7491, 7 December 2009) the domain name <**copartfinder.co.uk**> was transferred from the Respondent to the Lead Complainant.

The Complainants submit that the disputed domain name <**copartdirect.co.uk**> is identical or similar to the name and mark COPART.

The Complainants further submit that the disputed domain name <**copartdirect.co.uk**> is an Abusive Registration.

The Complainants submit that the Respondent is a vehicle dismantler and owner of the domain name <**doncastermotorspares.co.uk**> at which address it maintains a website.

The Complainants submit that the Respondent has actual knowledge of both of the Complainants. The Respondent was registered as a customer of the second named Complainant from June 1995 (before the Lead Complainant was launched in November 2007), the Respondent having been a customer of the Complainants' legacy business Universal Salvage. The Respondent purchased its first vehicle from the Lead Complainant on or about 15 November 2007. The Respondent was registered as a specific type of a buyer, referred to as "default buyer" by the Lead Complainant in April 2008. Since 5 November 2007 the Respondent has purchased 5246 vehicles in the Lead Complainant's Internet auctions.

The Complainants asks this Expert to note that as a vehicle dismantler, the Respondent is also a partial competitor of the Lead Complainant.

The Complainants submit that when the Lead Complainant acquired the assets of A G Watson Auto Spares (Scotland) Limited on 29 February 2008, the Lead Complainant inherited the lease of premises in Doncaster, South Yorkshire. The Respondent was the landlord of the premises. The Lead Respondent determined that lease with effect from 30 November 2008 and soon thereafter, the Respondent raised a grievance with the Complainant about the state of the premises at the termination of the lease and threatened legal action regarding the alleged dilapidations.

On 5 January 2009 the Respondent registered the domain names <**co-partfinder.co.uk**> and <**copartfinder.co.uk**>. The domain name <**copartfinder.co.uk**> was subsequently transferred to the Lead Complainant following the decision of the expert in *Copart UK Limited v Doncaster Motor Spares Limited* (DRS 7491, 7 December 2009)

The Complainants submit that the disputed domain name is an "Abusive Registration". The Complainants ask this Expert to note that the DRS Policy defines an "Abusive Registration" as being 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."

The Complainants also refer to the factors evidencing "Abusive Registration" as set out in section 3(a)(i)(B) of the DRS Policy and submit that circumstances that indicate that a respondent has registered a domain name primarily as a blocking registration against a name or mark in which a complainant has rights, are evidence of an Abusive Registration.

The Complainants submit that while the Complainants are primarily engaged in the sale of vehicles for the insurance industry, fleet operators, dealers and other corporate clients, in or around 2006 the second named Complainant developed a new brand CopartDirect incorporating its trade mark COPART for selling motor vehicles for members of the general public. The Complainant registered the domain name <**copartdirect.com**> incorporating its registered trade mark COPART in December 2006. A comprehensive website devoted to this service is available under the <**copartdirect.com**> domain name.

Having been a customer as well as a competitor of the Lead Complainant, the Respondent would have been aware of the Complainants' brand names and their development and it would have been a logical conclusion that following the launch of the CopartDirect brand and service by Copart's parent company in the USA, the same brand and service was likely to have been rolled out in the UK. The Complainants submit that the disputed domain name <**copartdirect.co.uk**> therefore includes both the Complainants' trade mark and a generic word "direct" that is used commonly in business and general language among others for the services that are prompt and straight forward and/or that deal 'directly' with customers without the involvement of intermediaries.

The Complainants ask this Expert to note that the Respondent registered the domain name <**copartdirect.co.uk**> on 5 January 2009 and refrained from using it. The web page to which the disputed domain name resolves does not divert or re-direct visitors to a particular website and instead display a message that the domain is parked. The Complainants submit that if the disputed domain name <**copartdirect.co.uk**> is ever used for the sale of motor vehicles, which is the Respondent's main business, the Respondent would take an unfair advantage of the Complainants' reputation.

The Complainants submit that the domain names <**co-partfinder.co.uk**> and <**copartauction.co.uk**> were registered after the Lead Complainant filed a Complaint under the Nominet UK DRS against the Respondent in respect of the domain name <**copartfinder.co.uk**>. Both domain names incorporate the Complainants' trade mark along with the generic words "auction" and "finder" respectively. The printouts of the pages available under the aforementioned domain names clearly show that these do not relate to particular websites and are currently parked.

The Complainants refer to paragraph 3(a)(i)(B) of the DRS Policy and submit that since the Respondent registered the domain names <**co-partfinder.co.uk**>, <**copartauction.co.uk**> and <**copartdirect.co.uk**> as blocking registrations against a name or mark in which the Complainants have rights and are therefore abusive registrations.

In conclusion the Complainants submit that the Respondent is a direct business competitor of the Lead Complainant. The Respondent and the Lead Complainant engaged in a property related dispute and were also engaged in previous Nominet DRS proceedings in respect of the domain name <**copartfinder.co.uk**>.

The Complainant submits that “[t]wo out of the three domain names that are the subject of this complaint” were registered by the Respondent following the filing of complaint DRS 7491 relating to <copartfinder.co.uk> by the Complainants against the Respondent in August 2009. Accordingly, the Complainants aver that the three domain names were each registered primarily either for the purposes of unfairly disrupting the Complainants’ business as outlined in paragraph 3(a)(i)(C) of the Policy or as a blocking registration. [It should be noted that this Expert has been appointed to determine the Complaint in respect of the domain name domain name <copartdirect.com> only]

The Complainant further submits that paragraph 3(a)(ii) of the DRS Policy provides that the circumstances indicating that the Respondent is using or threatening to use the disputed domain name in a way which has confused or is likely to confuse people or businesses into believing that the disputed domain name is registered to, operated or authorised by, or otherwise connected with the Complainants may form evidence that the domain name amounts to abusive registration.

While the disputed domain name is currently parked, the Complainants submit that it is unlikely that the disputed domain name will, or could ever be used in any other way than as blocking the Complainants’ registration or to confuse site visitors as to whether the goods and/or services are provided by or associated with the Complainants.

The Complainants conclude by requesting that this Complaint be merged with the complaint D00008956, which was made by the Complainants against the same party and state that the Respondent decided to abbreviate its name when registering the domain names referred to in the complaint D00008956.

The Respondent’s Submissions

The Respondent submits that the Complaint should be rejected. The Respondent submits that it has been selling car parts vehicles for over 60 years and was incorporated as a company in 1962. The Respondent submits that it has run an online auction for cars and car parts for over 10 years.

The Respondent submits that it is developing several hundred websites. The Respondent claims to register domain names that are in its “line of business and are then developed with key words to establish high ranking in google and other search engines.” The Respondent has submitted a list of 266 gTLD and .co.uk ccTLD Internet domain names which it claims to own and submits that each of its domain names contains generic phrases relating to vehicles, parts and auctions.

The Respondent submits that it has owned the domain name <partfinder.co.uk> and operated a website at <www.partfinders.co.uk> for over 7 years. The Respondent also owns a registered company :Copartfinder Limited (company Number 6998930).

Furthermore the Respondent claims to own and operate a website at the <www.partdirect.co.uk> address and several other websites with domain name addresses incorporating the name “partdirect” including <www.audipartdirect.co.uk>, <www.bmwpartdirect.co.uk>, <fordpartdirect.co.uk>. The Respondent submits that therefore <copartdirect.co.uk> is a legitimate registration.

The Respondent admits to being aware of the Complainant’s parent corporation but submits that as that corporation does not deal or sell parts in the UK, the Respondent’s registration of the disputed domain name is genuine registration and not abusive.

The Complainants’ Reply

In a Reply the Complainants submit as follows:

The Complainant notes that the Respondent states that it has ‘been trading in the UK for over 60 years and was incorporated as a company in 1962’. The Complainants comment however that the company incorporated in 1962 is that of ‘Doncaster Motor Spares Limited’ (Company Number 00739986). A print out of the Companies House record confirming this is attached to the Reply. The Complainant avers that the Respondent’s trading under this company name does not confer any rights on the Respondent in the domain name <copartdirect.co.uk>, which has no connection with the company name of Doncaster Motor Spares.

The Complainants further note that the Respondent states that it registers domain names which are in its line of business and the domain names contain generic phrases. The Complainants aver that the word ‘COPART’ which is the company name and registered trade mark of the Complainants, is an invented word and as such, is neither generic, nor is it a term which can legitimately be claimed as falling within the Respondent’s line of business. The Complainants submit that the name COPART is well known as being associated with the Complainants throughout the vehicle salvage industry for online remarketing of vehicle salvage and, increasingly, of non-salvage vehicles.

The Complainants submit that it follows that the Respondent’s use of the word ‘COPART’ in its registration of the disputed domain name <copartdirect.co.uk> is not in good faith and constitutes an Abusive Registration under paragraphs 3(a)(i)(B) and/or 3(a)(i)(C) of the Nominet UK Dispute Resolution Service Policy (‘Policy’).

The disputed domain name <copartdirect.co.uk> is currently parked, as evidenced by a printout submitted by the Complainants which shows the web page available in respect of the disputed domain name. The Complainants submit that the risk that the Respondent may actively use the disputed domain name or may refer to it on any of

its active websites, further amounts to an Abusive Registration under paragraph 3(a)(ii) of the Policy.

The Complainants submit that use of the disputed domain name and the Complainants' registered trade mark COPART in combination with the generic term 'direct' can only legitimately refer to goods and/or services provided directly by the Complainants. Any use of the disputed domain name by the Respondent is likely to confuse people and/or businesses into believing that the disputed domain name is registered to, operated or authorised by, or otherwise connected with the Complainants.

The Complainants submit that in *Citigroup –v– GPM Ltd* [2005] EWHC 2663(Ch) Part J clearly stated "the mere registration and maintenance in force of a domain name which leads, or may lead, people to believe that the holder of the domain is linked with a person [here the Complainant] is enough to make the domain a potential "instrument of fraud", and "is passing off."

The Complainants refer to the Respondent's statement that it owns the company Copartfinder Limited (Company Number 6998930). The Complainants submit that the incorporation of this company does not confer any rights on the Respondent in respect of the domain name <copartdirect.co.uk> and is irrelevant insofar as the Respondent seeks to rely on it to support its defence. The Complainants submit that the disputed domain name <copartdirect.co.uk> was registered on 5 January 2009, shortly after the property dispute between the parties, referred to in the Complaint. The company Copartfinder Limited was not incorporated until 24 August 2009, after the Complainant filed a separate complaint with Nominet Dispute Resolution Service (DRS 7491) on 10 August 2009, regarding the domain name copartfinder.co.uk (which was subsequently transferred to the Complainant following the Expert's decision).

The Respondent refers to a Companies House website search showing incorporation details of Copartfinder Limited that shows that the company is non-trading. The Complainant submits that the Respondent incorporated Copartfinder Limited in bad faith, after the business relationship between the Complainant and Respondent broke down, in an attempt to construct its defence to the present Complaint as well as the separate complaint in respect of the domain name <copartfinder.co.uk>, *ex post facto*. The Complainants submit that the fact that the company is non-trading shows the Respondent knows it cannot actively trade under that name within its usual industry sector, without (a) infringing the Complainants' registered trade mark COPART and/or (b) without passing off its business as being associated with that of the Complainants. As a non-trading company, the incorporation of Copartfinder Limited serves no purpose to the Respondent, except for attempting to cause damage to the Complainants. The Complainants are considering further steps in this regard.

The Complainants submit that the home page of the website at <www.partfinders.co.uk> displays a list of links made up exclusively of the name of a motor vehicle manufacturer and the generic word 'parts'. Therefore a site user can select the make of car parts it is seeking. The Complainants point out that their name

does not appear in this list, because neither its full name and registered trade mark COPART nor its constituent prefix 'CO' constitutes the name of a motor vehicle manufacturer, in respect of which a site user would possibly search for parts, nor does it constitute a search term that can legitimately be used by the Respondent, without inferring any connection with the Complainants' business.

The Complainants allege that the Respondent's reference to owning domains <audipartdirect.co.uk>, <bmwpartdirect.co.uk>, <fordpartdirect.co.uk> is a stark contradiction to its claim that all its domain names contain generic phrases. These domain names include the trade marked names of motor vehicle manufacturers 'Audi', 'BMW' and 'Ford'. In this regard the Complainants have furnished printouts of extracts from the register of the UK Intellectual Property Office evidencing registration of the aforementioned trade marks.

The Complainants refer to the results of Nominet's WHOIS query regarding these domain names furnished with the Complaint that show that the Respondent registered the domains on 28 August 2009, eighteen days after the Lead Complainant filed the above-referenced complaint DRS 7491 in respect of the domain name <copartfinder.co.uk>.

The Complainants allege that the Respondent was put on notice that the Complainant objected to the Respondent's use of the Complainant's trade mark COPART in all its existing and future registrations of domain names and the Complainant asserts that the Respondent has subsequently registered a number of domain names in an attempt to construct its defence in respect of further complaints such as the present case. A printout of the page available under the domain name <audipartdirect.co.uk> shows this domain name does not relate to a particular website and is currently parked.

The Complainants submit that the Respondent's ownership of the domain name <partdirect.co.uk>, consisting exclusively of generic words, does not confer any rights on the Respondent in respect of the domain name <copartdirect.co.uk>, which contains the Complainant's trade mark.

The Complainants submit that the Respondent's inclusion of the prefix 'co' in respect of <copartdirect.co.uk> removes the generic meaning that is normally associated with the word 'part' and instead would focus any site user's attention on the word 'COPART' as a whole, which when followed by the generic word 'direct', would lead such site user to believe that the domain is in some way associated with the Complainant. Given that the Complainant trades as COPART and is the largest vehicle re-marketer in the United Kingdom, auctioning some 230,000 vehicles annually, any active use of the domain by the Respondent would confuse people – and particularly those with any knowledge of the UK's used car/vehicle salvage market - into believing that the domain is registered to, operated or authorised by, or otherwise connected to the Complainant, thus constituting Abusive Registration under paragraph 3(a)(ii) and consequently also paragraph 3(a)(i)(C) of the Policy.

The Complainants refer to a printout of the web page to which the domain name <partdirect.co.uk> resolves and submit that it shows that this domain does not relate to a particular website and is currently parked. Furthermore the results of a Nominet WHOIS query in respect of this domain shows the Respondent registered the domain name on 28 August 2009, eighteen days after the Complainant filed the above referenced complaint DRS 7491.

The Complainants submit that the Respondent's reference to a large number of domain names listed in its Reply is irrelevant and fails to support that the Respondent has any rights in the domain name <copartdirect.co.uk>. The list of domain names demonstrates further instances where the Respondent has registered domains which do not only contain generic phrases, but also include the trade marked names of motor vehicle manufacturers. The Complainants submit that many of the domains referred to in the Response are parked and in this regard by way of examples the Complainants have furnished printouts of a number searches.

The Complainants allege that the registration of such domain names will potentially result in further disputes based on the Respondent's pattern of registered trade mark infringement and/or represents further evidence of the Respondent's cybersquatting/domain name grabbing activities in relation to domain names closely linked with pre-existing rights holders and/or competitors.

The Complainants refer to the Respondent's assertion that the Complainant does not deal or sell parts in the UK. The Complainants submit that while they may not sell parts as a primary business activity (though it sells parts wholesale as a secondary business activity), the Lead Complainant's services include facilitating the sale of vehicle parts via its CopartFinder service and associated website <www.copartfinder.co.uk>, which amounts to dealing in parts in the UK. The Complainant's CopartFinder service enables users to search and locate spare parts for different vehicle specifications.

The Complainants submit that the development of such a facility was undertaken by the second named Complainant and was launched via the domain <copartfinder.com> for use throughout the USA.

The Complainants submit that they intended to launch CopartFinder in the UK *via* the domain name <copartfinder.co.uk>, but were obstructed from doing so when the Respondent abusively registered the domain name on 5 January 2009, until it was transferred to the Complainant following the expert's decision in the above-referenced complaint DRS 7491. Since the transfer, the Complainant actively uses the domain name to operate the CopartFinder search facility throughout the UK, for the benefit of its customers. A printout of the page available at <www.copartfinder.co.uk> has been submitted by the Complainants. The Complainants submit that a direct link to this website is also displayed on the home page of the Complainant's website <www.copart.co.uk>, which when selected, directs the user to the website <www.copartfinder.co.uk>. A screen print of the home page of <www.copart.co.uk> has been furnished by the Complainants.

The Complainants furthermore submit that the Memorandum of Association of the Lead Complainant (an extract of which has been furnished by the Complainants) stipulates at paragraph 3(A) that the company is established to carry on the business as buyers, sellers and general dealers in wrecked, damaged and used cars and vehicles of every description, as well as engines, bodies, tyres, fittings, accessories, components, apparatus and requisites concerned with the manufacture, running, repair or use of vehicles of every description. The purpose for which the Lead Claimant was incorporated in the UK and in respect of which it subsequently operates, clearly includes the dealing in vehicle parts.

The Complainants argue that notwithstanding the above, the Respondent's claim that the Complainants do not deal or sell parts is irrelevant and the Complainant refutes any assertion by the Respondent that it is entitled to register the domain name <copartdirect.co.uk>.

The issue of whether or not the Complainants sell vehicle parts does not diminish the fact that the Parties both trade and operate within the used car/vehicle salvage market, as supported by the Respondent's own reference to its running of an online auction for vehicles. The selling and/or dealing of parts is inextricably linked with the salvage market as a whole – certain accident-damaged vehicles, for example, may only be sold to licensed breakers so they may be broken for their usable parts. The effect is that any person familiar with the salvage industry would reasonably assume that the disputed domain name is associated with the Complainants, regardless of the extent of the Complainants' actual dealings in vehicle parts.

The Complainants submit that if the disputed domain <copartdirect.co.uk> stays in the Respondent's ownership, it is unlikely it will or could ever be used in any other way than to confuse site visitors as to whether the goods and/or services offered under that domain are provided by the Complainant. Notwithstanding this, the mere registration and any further use would amount to infringement of the Complainants' registered trade marks and/or passing off.

The Respondent has failed to demonstrate that it has made any preparations to use the domain name <copartdirect.co.uk> in connection with a genuine offering of goods or services and its registration constitutes an Abusive Registration under paragraph 3(a)(i)(B) and/or 3(a)(C) and/or 3(a)(ii) of the Policy.

6. Discussions and Findings

Paragraph 2.a of the DRS Policy provides that a Respondent must submit to proceeding if a Complainant asserts to us, according to the Procedure, 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.

Paragraph 2.b of the DRS Policy provides that the Complainant is required to prove to the Expert that both elements are present on the balance of probabilities.

The Complainants have furnished ample evidence to satisfy this Expert that they have rights in the name and trade mark COPART, through their above-listed registered trademarks and at common law through their extensive use of the COPART name and mark in the automotive salvage and related industries on the Internet and otherwise.

This Expert finds that the disputed domain name is similar to the Complainants' COPART trademark as it consists of a combination of the trademark and the generic word "direct". It is well established that in making the comparison under the DRS Policy the <.co.uk> ccTLD extension may be ignored.

This Expert finds that the disputed domain name is an "Abusive Registration" as defined in the DRS Policy.

The Respondent has been at all material times aware of the Complainants and their business activities. The Respondent was a customer of the second named Complainant before the Lead Complainant was established. The Respondent has been a customer and competitor of the Lead Complainant since its establishment in 2007. Furthermore the Respondent and the Lead Complainant were in a landlord and tenant relationship that ended with some acrimony but apparently did not proceed to litigation.

On the evidence submitted, in 2006 the second named Complainant developed a new brand CopartDirect incorporating its trade mark COPART for selling motor vehicles for members of the general public and registered the gTLD domain name <copartdirect.com> incorporating its registered trade mark COPART in December 2006.

Having been a customer as well as a competitor of the Lead Complainant, the Respondent would have been aware of the Complainants' brand names and their development and it would have been a logical conclusion that following the launch of the CopartDirect brand and service by the parent company in the USA, the same brand and service was likely to have been rolled out by the Lead Complainant in the UK.

It follows that the Respondent was aware of the Complainants and their respective businesses in the USA and the UK when the disputed domain name <copartdirect.co.uk> was registered on 5 January 2009.

The word 'COPART' which is the company name and registered trade mark of the Complainants, appears to be an invented word and as such, is neither generic, nor is it a term which can legitimately be claimed as falling within the Respondent's line of business.

The Respondent has submitted a lengthy list of the Internet domain names to which it refers. Many of them are generic while many incorporate trademarks well known in the motor industry.

The Respondent to some extent relies on the fact that it has registered the word "direct" in combination with a number of trademarks owned by third parties viz. <**www.audipartdirect.co.uk**>, <**www.bmwpartdirect.co.uk**>, <**fordpartdirect.co.uk**> presumably to support a claim to have some rights in the word "direct". Each of these domain names and the Respondent's generic <**partsdirect.co.uk**> domain name were registered on 28 August 2009.

This Expert finds on the balance of probabilities that the Respondent was aware that the Lead Complainant's parent corporation had registered <**copartdirect.com**> in December 2006 as part of the new services it was providing under the COPARTDIRECT brand. This Expert also finds that on the balance of probabilities therefore the Respondent, a competitor of the Complainants chose and registered the disputed domain name in order to block the use of the corresponding ccTLD domain name by the Lead Respondent in any launch of services under a COPARTDIRECT brand.

In the circumstances this Expert finds that that the disputed domain name <**copartdirect.co.uk**> is an Abusive Registration and the Complainants are entitled to succeed in this Complaint.

For completeness, while the Complainants have requested that this Complaint be merged with the complaint D00008956, this Expert has been appointed to address the Complaint in respect of the disputed domain name <**copartdirect.co.uk**> only.

7. Decision

This Expert decides that the Complainants have succeeded in their Complaint and directs that the Respondent forthwith transfers the disputed domain name <**copartdirect.co.uk**> to the Lead Complainant.

Signed: James Bridgeman

Dated 25 November 2010