



DISPUTE RESOLUTION SERVICE

D00015109

Decision of Independent Expert

Greenlight Credit Limited

and

Mr Barry Lloyd

1. The Parties:

Complainant: Greenlight Credit Limited
Regus Business Park
Wellington Way
Weybridge
Surrey
KT13 0TT
United Kingdom

Respondent: Mr Barry Lloyd
132-134 Great Ancoats Street
Manchester
M4 6DE
United Kingdom

2. The Domain Name:

varooma.co.uk

3. Procedural History:

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.

24 November 2014 15:53 Dispute received
25 November 2014 12:41 Complaint validated
25 November 2014 13:27 Notification of complaint sent to parties
12 December 2014 01:30 Response reminder sent
17 December 2014 11:29 Response received
17 December 2014 11:30 Notification of response sent to parties
17 December 2014 16:02 Reply received
17 December 2014 16:02 Notification of reply sent to parties
17 December 2014 16:05 Mediator appointed
22 December 2014 11:30 Mediation started
07 January 2015 16:20 Mediation failed
07 January 2015 16:22 Close of mediation documents sent
09 January 2015 13:02 Expert decision payment received
21 January 2015 10:47 Expert 13a Request for Further Information/Evidence
23 January 2015 Complainant provided Further Evidence
4 February 2015 No Comment provided by Respondent on Further Evidence

4. Factual Background

The Complainant owns the UK trade marks VAROOMA and VAROOMA.COM for financial services. It registered the Domain Name in 2011.

The Complainant mistakenly thought the Domain Name was accidentally left to expire by it, however this is not the case. The Complainant 's 123-reg domain control panel was hacked into and the TAG on the domain changed to another registrar and shortly afterwards the contact information was changed to the Respondent's name. The Police have arrested the Respondent and seized his computers and their investigation is ongoing.

The Respondent has offered the Domain Name for sale for £10,000.

5. Parties' Contentions

The Complainant's contentions can be summarised as follows:

The Complainant owns the trade mark VAROOMA and has been trading using www.varooma.co.uk and varooma.com since 2011. The name Varooma is well known by the public as a .brand within the logbook loans market.

The current registrant is believed to be a former customer of Varooma who appears to be unhappy with the company since his vehicle was repossessed as part of the Complainant's recovery process. Since that time he has made various negative Internet comments via social media sites. The Domain Name was likely purchased with the intention of doing the Complainant reputational harm and was registered to stop the Complainant from using it.

The Domain Name links to affiliate offers and a domain name sales platform where the Domain Name is for sale for £10,000. The affiliate offers will confuse customers looking for the Complainant's services.

The Respondent's contentions can be summarised as follows:

The Domain Name was registered to be used for an in development drinks business. It was registered on 5 October 2011 and has remained in our possession since that date. The Complainant registered its trade mark for VAROOMA and VAROOMA.COM one year after this date on 17 September 2012 and only relates to financial services. The Respondent's use of the Domain Name will never be related to financial services.

The CEO of the Complainant incited a monetary offer of \$10,000 to purchase the name. We accepted this offer and listed the domain for sale. The sale has fallen through so we have withdrawn the Domain Name from sale and plan to finalise plans to use the Domain Name in the drinks business.

We own the facebook page www.facebook.com/varooma and have received no notice of any issue from the Complainant. The DRS is an abuse of process.

The Complainant's Reply can be summarized as follows:

The contents of the Response is fictional.

The Domain Name was first registered by the Complainant on October 5 2011.

The Complainant did not offer to purchase the Domain Name from the

Respondent.

The Complainant has its own Varooma page on facebook. The Complainant's web site is much more likely to be found by our customers.

The Complainant's submitted a further statement after the Response which can be summarised as follows:

The Complainant mistakenly thought the Domain Name was accidentally left to expire, however this is not the case. The Complainant 's 123-reg domain control panel was hacked into in November 2014 and the TAG on the domain changed to another registrar and shortly afterwards the contact information was changed to the Respondent's name. The Police have arrested Barry Lloyd and seized his computers and their investigation is ongoing.

In response to a 13 a Request from the Expert for further information and evidence the Complainant subsequently provided:

1. copy e mails from Nominet showing that the Domain Name was originally registered for the Complainant on 5 October 2011 and that the registrar tag was changed on 12 November 2014 and the registrant name changed to Barry Lloyd on 14 November 2011; and

2. copy e mails from the Police confirming that there was evidence that the Respondent changed the routing of the Domain Name by hacking into the Complainant's web site and redirecting the website, that the Respondent had requested £10,000 for the Domain Name and that the Respondent had been arrested and was currently being investigated.

6. Discussions and Findings

General

To succeed in this Complaint the Complainant has to prove to the Expert pursuant to paragraph 2 of the Policy on the balance of probabilities, first, that it has Rights (as defined in paragraph 1 of the Policy) in respect of a name or mark identical or similar to the Domain Name and, secondly, that the Domain Name, in the hands of the Respondent, is an Abusive Registration (as defined in paragraph 1 of the Policy).

Complainant's Rights

The Complainant is the proprietor of a UK registered trade mark for, inter alia VAROOMA for financial services. The Domain Name consists of the VAROOMA mark in its entirety and the domain name suffix '.co.uk'. Accordingly the Expert finds that the Complainant has Rights in respect of a name or mark, which is identical to the Domain Name for the purposes of the Policy.

Abusive Registration

This leaves the second limb. Is the Domain Name, in the hands of the Respondent, an Abusive Registration? 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 was unfairly detrimental to the Complainant's Rights."

A non-exhaustive list of factors, which may be evidence that the Domain Name is an Abusive Registration is set out in paragraph 3a of the Policy. These include:

- i "Circumstances indicating that the Respondent has registered or otherwise acquired the Domain Name primarily:
 - A. 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;
 - B.As a blocking registration against a name or mark in which the Complainant has Rights; or
 - C.for the Purpose of unfairly disrupting the business of the Complainant;

The Expert is of the opinion that the Respondent's conduct and use of the Domain Names is indicative of relevant abusive conduct.

There is evidence by way of a copy e mail from Nominet that the the Domain Name was registered for the Complainant in 2011. There is further evidence by way of copy e mails from Nominet and the Police that the Respondent hacked the Complainant's 123-reg domain control panel in November 2014 and changed the TAG on the Domain Name to another registrar and the contact information to the Respondent's name. The Police state they have arrested the Respondent and and their investigation is ongoing. They record that the Respondent subsequently offered to sell the Domain Name for £10,000, a fact which the Respondent's Response appears to admit. The Respondent did not provide any comments in relation to this further evidence. As such the Expert finds that the Respondent acquired the name in November 2014 for the purposes of selling it to the Complainant or a competitor of the Complainant for valuable consideration in excess of the Respondent's out of pocket costs associated with the Domain Name and did so also to unfairly disrupt the business of the Complainant and to be a blocking registration against a name in which the Complainant had Rights. As such the Expert holds that the registration of the Domain Name is abusive under Paragraph 3a (i) A, B and C of the Policy.

7. Decision

In light of the foregoing findings, namely that the Complainant has Rights in respect of a name which is similar to the Domain Name and that the Domain Name, in the hands of the Respondent, is an Abusive Registration, the Expert directs that the Domain Name, varooma.co.uk be transferred to the Complainant.

Signed: Dawn Osborne

Dated: 16 February 2015