

# **DISPUTE RESOLUTION SERVICE**

**D00018946**

## **Decision of Independent Expert**

Compare Parking Deals Ltd

and

Fakhar Javed

### **1. The Parties:**

Complainant: Compare Parking Deals Ltd  
83 Ducie St  
Manchester  
Greater Manchester  
M12JQ  
United Kingdom

Respondent: Mr Fakhar Javed  
354 bahira town  
Rawalpindi  
46000  
Pakistan

### **2. The Domain Name:**

compareparkingdeals.co.uk

### **3. Procedural History:**

I 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.

31 May 2017 15:53 Dispute received  
08 June 2017 16:49 Complaint validated  
08 June 2017 17:55 Notification of complaint sent to parties  
27 June 2017 02:30 Response reminder sent  
30 June 2017 09:30 Response received  
30 June 2017 09:30 Notification of response sent to parties  
05 July 2017 02:30 Reply reminder sent  
07 July 2017 10:36 Reply received  
07 July 2017 10:38 Notification of reply sent to parties  
07 July 2017 10:38 Mediator appointed  
07 July 2017 10:38 Mediation started  
07 July 2017 11:00 Mediation failed  
07 July 2017 11:01 Close of mediation documents sent  
07 July 2017 16:16 Expert decision payment received

#### **4. Factual Background**

The disputed domain name was registered on 7 January 2015.

The Complainant was incorporated on 7 January 2015. From April 2015 the Complainant has carried on the business of operating a comparison website to which the disputed domain name resolved <compareparkingdeals.co.uk for airport parking, including “meet & greet” and “park & ride” services, under the name COMPARE PARKING DEALS.

The disputed domain name now resolves to a web page at [www.compareparkingdeals.co.uk](http://www.compareparkingdeals.co.uk) that states:

Compare Parking Deals

Service Down Notification

Due To Non-Payment, WebSite Services Has Been  
Down Since

04 May 2017

The factual context of this dispute is very complex.

Complainant submits that Respondent has taken unauthorised control of the disputed domain name registration and is using it in an abusive manner whereas the Respondent submits that he was given possession over the disputed domain name by the Complainant as a surety for monies owed; that the Complainant continues to have access to the website to which the disputed domain name resolves; and that the Complainant, motivated to avoid paying monies due to the Respondent, has changed the registration details of the disputed domain name and posted a disruptive statement on the website in order to falsely give the impression that the Respondent is carrying out these unauthorised actions.

## **5. Parties' Contentions**

### The Complainant's Submissions

The Complainant submits that it is the lawful owner of the disputed domain name. Sample archive website printouts from 15 April 2015 and 21 October 2016 show that the Complainant had an active website to which the disputed domain name resolved on those dates.

The Complainant has also exhibited a Paypal account that purports to show sales receipts for a six-figure sum between January and May 2017 and an invoice for a significant spend on Google advertising for the Complainant's website. (These figures have been disputed by the Respondent).

Google Analytics data submitted by the Complainant show that there were 485,000 users of the Complainant's site with nearly 3.5 million page views over the period 1 March 2015 to 17 May 2017.

The Complainant submits that the disputed domain name was originally registered by a Mr Pawar on 7 January 2015 on behalf of the Complainant. Mr Pawar had previously operated his own comparison website and is an acquaintance of the sole director of the Complainant and her husband. Mr Pawar offered to help the Complainant to set up the business and at the Complainant's request, Mr Pawar also arranged for the website at the disputed domain name to be constructed by the Respondent who is a website developer that Mr Pawar had used previously for his own site. All payments for registration and renewal of the disputed domain name were made by the Complainant. The Complainant has submitted a renewal invoice dated November 2016 from the registrar GoDaddy addressed to the sole director of the Complainant company.

The Complainant submits that Mr Pawar acted in an informal capacity, liaising between the Complainant and the Respondent; that there was no formal agreement between the Complainant and Mr Pawar in respect of the services provided by him; and that casual one-off payments were made to the Mr Pawar as and when he provided assistance to the Complainant.

The Complainant submits that in March 2017, a dispute arose between Mr Pawar and the Complainant regarding payments allegedly due from the Complainant. The Complainant submits that Mr Pawar somehow procured his registration as a director of the Complainant at Companies House; that the Complainant secured his removal two days later; that on 2 May 2017 Mr Pawar unilaterally changed the registrant details of the disputed domain name from the Complainant's name to his own name and contact details; that on 3 May, he switched ownership of the disputed domain name into a proxy service – Domains By Proxy LLC; on 4 May 2017, Mr Pawar arranged for the Complainant's website at the disputed domain name to be taken down and to be replaced by a notice which stated: "Due to Non-Payment, WebSite Services Has Been Down Since 04 May 2017."

The Complainant submits that Mr Pawar subsequently set up his own new comparison website for airport parking.

On 31 May 2017 the Complainant filed the original version of this Complaint. As at 7 June 2017 the registrant name on the WhoIS had been changed to the Respondent. The Complainant is not clear as to the exact circumstances in which the change was made but submits that it is clear is that there has been no change in ultimate control of the disputed domain name. As of 8 June 2017, disputed domain name continued to resolve to the website with the abovementioned notice attacking the Complainant.

### The Response

The Respondent denies that Mr Pawar has anything to do with this dispute and his name has been involved deliberately in this matter. The Respondent states that Mr. Pawar was not merely an acquaintance of the principal of the Complainant but was the Senior Marketing Manager of the Complainant company.

The Respondent states that he worked with the Complainant from October 2015 until 4 May 2017 and is familiar with the Complainant's business. He challenges the evidence of revenue and expenditure on advertising adduced by the Complainant and states that the only acceptable proof of revenue is the Complainant's bank statement. He states that there is no evidence provided by the Complainant that Mr Pawar actually registered the disputed domain name on behalf of the Complainant and the original registrant invoice indicates that it was registered by the principal of the Complainant company. He argues that there is no evidence that the Complainant is the first registrant, but accepts that the disputed domain name was registered by the sole director of the Complainant on the day on which it was incorporated. He asserts that the renewal invoice does not prove that the Complainant is the actual registrant of the disputed domain name and not merely a contact renewing the domain name on behalf of a third party.

He denies that he originally developed the website for the Complainant which he states was originally developed and designed by a third party. He also denies that he has ever been paid by Mr Pawar for such work or any other related task.

He agrees that in March 2017, a dispute arose between Mr Pawar and the Complainant regarding the payments of monies which Mr Pawar claimed were due to him. He denies that Mr Pawar procured his registration as a director as alleged because he argues that in England it is not possible for anyone to procure such registration without passing security ( e.g. online login details and authentication code ). Since the Complainant has only one director she has the access of such secure information. The Respondent submits that the Complainant offered Mr. Pawar a 25% share in the company against his unpaid salary and the Complainant's sole director herself registered Mr. Pawar as a company director on the register in Companies House. The Respondent states that when Mr. Pawar refused the offer and requested payment of his salary his name was removed two days later by the Complainant from the Companies House register.

The Respondent refers to a WhatsApp conversation dated 24 March 2017 to 25 March 2017 in support of assertions that Mr. Pawar had no access to any account, domain name, website, admin or Godaddy accounts after 25 March 2017 so that there is no possible way for him to change any detail of the disputed domain name or any other services accounts of the Complainant. The Respondent states that after that date only he and the husband of the sole director of the Complainant had access to those services and accounts.

The Respondent states that on 20 April 2017 he submitted an invoice via email to the Complainant which was acknowledged by the husband of the Complainant's sole director on 21 April 2017 who agreed via WhatsApp chat that he would pay the Respondent the monies due and also pay Mr Pawar's outstanding salary.

On 2nd May the Complainant sent the Respondent a payment which covered the Respondent's monthly payment and email marketing cost and was assured that he would be paid the balance very soon. When pressed by the Respondent to give an exact or estimated time that the payment would be made, the Complainant's husband allowed the Respondent to hold the website as surety on the understanding that the Respondent would not divulge any account information or use it for any abusive purpose. The Respondent has submitted a snapshot of WhatsApp chat message which he states clearly shows that he was given possession of the disputed domain name. (This Expert finds that the WhatsApp exchanges submitted do not in fact support this assertion).

The Respondent states that on 2 May 2017 the Complainant transferred the disputed domain name registration to Mr. Pawar's name so as to give the impression that the Respondent had made the change. The Respondent alleges that this was done to find an excuse to make a false accusation against the Respondent in order to avoid paying the outstanding amounts and wrongly blame the Respondent for the transfer.

The Respondent submits that he is lawfully in possession of the disputed domain name and denies that it is an abusive registration.

#### The Complainant's Reply

In Reply, the Complainant submits that the Response confirms that Mr Pawar and the Respondent are colluding.

The Complainant strongly denies the Respondent's claims regarding the various financial disputes outlined in the Response and argues that they are implausible and unsupported claims. The Complainant further submits that whatever the details of the underlying financial disputes, the Respondent has blatantly misused the disputed domain name by hijacking it; removing the Complainant's website; and replacing it with the notice attacking the Respondent.

The Complainant submits that the Respondent does not even mention, let alone attempt to justify, its plainly abusive activities in removing the Complainant's website and replacing it with a notice designed to damage the Complainant's business, noting that the Respondent's silence on these points is telling.

The Complainant further notes that the Respondent does not specifically dispute that the Complainant has been trading under the name “Compare Parking Deals” since January 2015 and submits further Google Analytics screenshot and two sample 2016 bank statements in the name of the Complainant showing expenditure on advertising.

The Reply additionally proceeds to challenge the Respondent’s version of events as set out in the Response. For reasons given below it is not necessary to rehearse the detail of these arguments.

## **6. Discussions and Findings**

In order for the Complainant to succeed in this Complaint, paragraphs 2.a and 2.b of the DRS Policy require the Complainant to prove 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 disputed domain name; and
- ii. the disputed domain name, in the hands of the Respondent, is an Abusive Registration.

Paragraph 1 of the DRS Policy defines “Abusive Registration” as meaning Abusive Registration means 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.

### **Rights**

The Complainant has provided sufficient evidence to prove that it has Rights in the name COMPARE PARKING DEALS. The three words are the dominant element of the Complainant’s corporate name and it has used the name in commerce over a number of years. The extent of the Complainant’s commercial activities and its expenditure on advertising has been challenged by the Respondent but it is clear that the Complainant has established sufficient Rights to meet the threshold set in Paragraph 2.a.i of the DRS Policy.

The disputed domain name is identical to the Complainant’s name as the <.co.uk> ccTLD extension may be ignored for the purpose of the comparison in this case.

Therefore in the circumstances this Expert finds that the Complainant has satisfied the first element of the test in Paragraph 2.a. of the Policy.

### **Abusive Registration**

There are two very conflicting and very complex versions of events proposed by the Parties in this case and it is beyond the capacity of the DRS procedure to unravel the truth in all the details of the allegations and counter-allegations. Furthermore the

disputes about alleged debts owed by the Complainant to the Respondent and Mr Pawar are outside the jurisdiction of these proceedings. The lengthy submissions relating to these disputes are therefore not relevant to the Complaint and this Expert makes no finding in respect of them.

If the Complainant's version of events were to be accepted there would be no alternative except to find that the disputed domain name is an Abusive Registration in the hands of the Respondent as it is clearly outside the control of the Complainant and resolves to a website with a statement which is disruptive of the Complainant's business.

The Respondent's version of events is that the Complainant arranged for Mr Pawar to be registered as a director of the Complainant company; had the disputed domain name transferred into Mr Pawar's name; and posted a statement "Due to Non-Payment, WebSite Services Has Been Down Since 04 May 2017" on its own website in order to create the impression that these actions were taken by the Respondent in order to discredit him so as to avoid paying him monies due to him.

This Expert finds that on the balance of possibilities the Complainant's version of events is more plausible and that these actions were taken by the Respondent. It is improbable that the Complainant would give the Respondent possession of its main asset as a security for a debt in such an informal way. It is even more improbable that the Complainant would take down its own website and post such a disruptive and damaging statement about itself online. Furthermore the Respondent is clearly in communication with Mr Pawar and has not provided any statement from Mr Pawar supporting his version of events as might be expected given the serious allegations made against him in this Complaint.

By depriving the Complainant of access to its website and posting such a disruptive statement the Respondent is clearly using the disputed domain name in a manner which is detrimental to the Complainant's rights.

In the circumstances, this Expert finds that on the balance of probabilities the disputed domain name is an Abusive Registration in the hands of the Respondent and the Complainant is entitled to succeed in the Complaint.

## **7. Decision**

For reasons given above this Expert directs that the disputed domain name compareparkingdeals.co.uk be transferred to the Complainant.

**Signed**  
James Bridgeman

**Dated 18 July 2017**