

DISPUTE RESOLUTION SERVICE

D00008918

Decision of Independent Expert

Jardine Lloyd Thompson UK Holdings Limited

and

Lee Woodley

1. The Parties:

Lead Complainant: Jardine Lloyd Thompson UK Holdings Limited
6 Crutched Friars
London
EC3N 2PH
United Kingdom

Respondent: Lee Woodley
43 Peartree Drive
Great Barr
Birmingham
B43 6HT
United Kingdom

2. The Domain Name:

<jltclaimsmanagement.co.uk>

3. Procedural History:

3.1 The Complaint in this matter was received on 11 August 2010, the Response on 6 September 2010 and the Reply on 14 September. Mediation having failed and the Complainant having paid the necessary

fee, the matter was referred to me for a Full Expert Decision on 18 October 2010.

- 3.2 I have confirmed that I am independent of the parties and that I am not aware of matters that may call my independence into question.

4. Factual Background:

4.1 The Complainant is UK registered company offering financial services including insurance services. It is the owner of UK registered trade mark number 2188190 for "JLT" for insurance and reinsurance services and insurance broking.

4.2 The Domain Name was registered by the Respondent on 14 January 2010.

4.3 At the date of the Complaint the Domain Name resolved to a website at www.jltclaimsmanagement.co.uk, which was a "parking page" linking to sites offering principally property management services.

5. Parties' Contentions:

The Complaint

5.1 The Complainant makes the following submissions in the Complaint:

5.1.1 The Complainant is a financial services group offering (inter alia) insurance, reinsurance and related financial services in the UK and EU.

5.1.2 The Complainant is the owner of UK registered trade mark number 2188190 registered in 2000 for "JLT" covering insurance and reinsurance services and insurance broking. Its associated company Jardine Lloyd Thomson Ireland Limited is the owner of Community Trade Mark number 7326622 registered in 2009 for "JLT" for similar services.

5.1.3 The Complainant has used the trade mark "JLT" since 1997 and has developed a strong reputation in the insurance and reinsurance sector. It operates websites incorporating the trade mark including sites at www.jltgroup.com and www.jltonline.co.uk.

- 5.1.4 As a result of these matters the Complainant has monopoly in the UK and EU for the use of the mark "JLT" in connection with insurance and reinsurance services.
- 5.1.5 The Domain Name incorporates the term "JLT" which is identical to the Complainant's mark.
- 5.1.6 The Respondent is using the Domain Name for a website comprising a holding page. The Complainant exhibits a website screen print that comprises a "parking page" offering links to property management services among other items.
- 5.1.7 The Domain Name has been registered "with the main intention of exhorting [sic] money from the Complainant." The Complainant exhibits a letter from the Respondent which replies to a letter from the Complainant's representatives (which is not exhibited). The letter is on the headed paper of a company named JLT Claims Management Limited and includes its company registration details. It states:

"We acknowledge receipt of your letter dated 8 March 2010.

Our website is under development and will be up and running when we are satisfied it is fit for purpose. The name of the Company outlines our area of expertise and that in which we shall trade.

Whilst we understand you client has the trade mark, it is restricted to 'JLT' rather than JLT and all that precedes the same. Had your client wanted our domain name your client had the opportunity to register this but decided not to do so.

We cannot agree with you that an abuse of registration has taken place and ask that you refrain from such allegations in future. Our company and the domain name have been set up as a legitimate business with entirely honourable intentions and at no point have we set out to distort anything.

We intend trading in this sector as is our right however, if your client believes domain name proceedings are the way forward please confirm the same to allow us to appoint lawyers accordingly.

That aside, my partners and I may consider such transfer of domain names if your client is prepared to compensate us appropriately.

We look forward to hearing from you."

- 5.1.8 The Respondent is not trading under the Domain Name and the Domain Name is not being used in relation to any independent commercial interest of the Respondent.
- 5.1.9 Even if the Domain Name was registered honestly with an intention to trade (which is disputed) it is now an Abusive Registration in that it prevents the Complainant from registering the Domain Name and is being used to extort money from the Complainant.
- 5.1.10 Even if the Respondent does use the Domain Name for the purpose of the intended website, this will be with the sole intention of causing confusion in the minds of the public who will assume that it is connected to or associated with the Complainant or that such use has been licensed, sponsored or endorsed by the Complainant.
- 5.1.11 The Respondent cannot fulfil any of the grounds under the Policy for showing that a registration is not an Abusive Registration.

The Response

- 5.2 The Respondent makes the following submissions in the Response:
 - 5.2.1 The Respondent and his two partners have set up a legitimate limited company. This is a start-up business which has involved time and efforts as well as a financial investment including a payment of approximately £700 plus VAT to the Ministry of Justice (this is not explained further). These are not the actions of "rogue traders".
 - 5.2.2 The choice of the Domain Name was based on the names of the three partners involved in the company, namely James, Lee and Tim.
 - 5.2.3 The terms "claims management" and "accident management" are extremely common and it is not clear why the Complainant should be entitled to a monopoly in this regard. The Complainant had ample opportunity to register the Domain Name.

- 5.2.4 As it happens, the Respondent's company is a holding company for other domain names and websites and it is not therefore necessary for it to use the Domain name.
- 5.2.5 The Respondent has acted honourably and the Domain Name was not registered with the intention of "exhorting money from the Complainant." The Respondent objects to the allegations made by the Complainant and its representatives and their unnecessarily aggressive approach.
- 5.2.6 The request for compensation on any transfer of the Domain Name reflected the expenditure incurred by the Respondent and the likely cost of the transfer.

The Reply

- 5.3. The Complainant makes the following submissions in its Reply:
 - 5.3.1 The terms "claims management" and "accident management" are descriptive and do not justify the Respondent's use of the Domain Name, which incorporates the Complainant's mark "JLT".
 - 5.3.2 The Respondent has confirmed that he does not intend to use the Domain Name. The Domain Name has therefore been registered for the purpose of "cybersquatting", to block the Complainant's registration of it and to profit from resale to the rightful owner.

6. Discussions and Findings

- 6.1 This dispute falls to be determined under the Nominet Dispute Resolution Service Policy ("the Policy") and the Nominet Dispute Resolution Service Procedure ("the Procedure"). Under paragraph 2 of the Policy:

(a) A Respondent must submit to proceedings under the Dispute Resolution Service if a Complainant asserts to [Nominet], 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.*

(b) *The Complainant is required to prove to the Expert that both elements are present on the balance of probabilities."*

6.2 Under paragraph 1 of the Policy the term "Rights":

"includes, but is not limited to, rights enforceable under English law..."

6.3 Also under paragraph 1 of the Policy, the term "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 took unfair advantage of or was unfairly detrimental to the Complainant's Rights."

6.4 Paragraph 3 of the Policy sets out a non-exhaustive list of factors that may be evidence that a domain name is an Abusive Registration. Paragraph 4 sets out a non-exhaustive list of factors that may be evidence that it is not. However, all these factors are merely indicative of, and subject to, the overriding test of an Abusive Registration as set out above.

Rights

6.5 The Complainant is the owner of UK and Community registered trade marks for "JLT" in connection with insurance services.

6.6 The Domain Name comprises the term "JLT" together with the addition "claimsmanagement" and the formal suffix "co.uk". I find that the distinctive part of the Domain Name is the term "JLT" and the addition "claimsmanagement" is wholly descriptive of services including those for which the Complainant's mark is registered. I therefore consider that the Complainant has Rights in a name or mark that is similar to the Domain Name.

Abusive Registration

6.7 On the balance of probabilities and based on the evidence available, I reject the Complainant's submissions that the Respondent registered the Domain Name as a blocking registration, for the purpose of extorting money from the Complainant or with the intention of causing confusion as to the origin of any services.

6.8 However, as stated above, the Domain name comprises the Complainant's registered trade mark "JLT" together with the term "claims management", which is descriptive of services including those for which the Complainant's mark is registered. While the Complainant is not engaged solely in claims management, and while claims management could refer to activities outside the insurance sector, I consider there to be a significant level of risk that internet users would assume that the Domain Name, or a website linked to it, was owned or approved by the Complainant.

6.9 In cases of likely confusion, it is not necessary (as with other grounds for an Abusive Registration) to prove an element of intention on the Respondent's part. Paragraph 3(a)(ii) of the Policy merely requires the Complainant to demonstrate:

"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."

6.10 I find that that likelihood exists in this case, since in view of the Complainant's Rights I do not believe that there is any party other than the Complainant that could use the Domain Name without such a likelihood arising.

6.11 In the circumstances, I find that the grounds for an Abusive Registration have been made out.

7. Decision

7.1 The Complainant has established for the purposes of the Policy that it has Rights in respect of a name or mark which is identical or similar to the

Domain Name and that the Domain Name in the hands of the Respondent is an Abusive Registration. The Complaint therefore succeeds and I direct that the Domain Name be transferred to the Complainant.

Steven A. Maier
3 November 2010