

DISPUTE RESOLUTION SERVICE

D00009464

Decision of Independent Expert

GEB ADOPTAGUY

and

Mr Trevor Eccles

1. The Parties

Complainant : GEB ADOPTAGUY
2 rue du Roule
Paris
75001
France

Respondent : Mr Trevor Eccles
23 Lurgy Rd
Dungannon
Co Tyrone
BT71 4DQ
United Kingdom

2. The Domain Name

adoptaguy.co.uk ("the Disputed Domain Name")

3. Procedural History

The Complaint was filed with Nominet on 2 March 2011. Nominet validated the Complaint on 4 March 2011 and notified the Respondent by post and by email, stating that the Response had to be received on or before 25 March 2011. The Respondent filed a Response on 25 March 2011 and the Complainant filed a Reply on 30 March 2011.

The Informal Mediation procedure failed to produce an acceptable solution for the parties and so on 4 May 2011 Nominet informed the Complainant that it had until 18 May 2011 to pay the fee for the decision of an Expert pursuant to paragraph 7

of the Nominet Dispute Resolution Service Policy ("the Policy"). On 6 May 2011 the Complainant paid Nominet the required fee.

On 10 May 2011 the undersigned, Jane Seager ("the Expert"), confirmed to Nominet that she knew of no reason why she could not properly accept the invitation to act as an Expert in this case and further confirmed that she knew of no matters which ought to be drawn to the attention of the parties which might appear to call into question her independence and/or impartiality.

4. Factual Background

The Complainant, currently via its subsidiary company, Adopte Un Mec (AUM), has operated an online dating website at www.adopteunmec.com since early 2007. The website's main distinguishing feature is that women select men as though they were shopping, and men are only able to contact women once they have been selected.

In France www.adopteunmec.com has become one of the main online dating websites for people under 25 and competes with other well known online dating websites such as Meetic.

On 6 March 2009 the Complainant registered the domain name <adoptaguy.com> and has since used it to develop a version of the website for the US market.

On 29 September 2009 the Complainant filed figurative French trade marks in the terms ADOPTE UN MEC (number 3680341) and ADOPT A GUY (number 3680340). Both have since been registered.

The ADOPTE UN MEC trade mark has also now been registered in Switzerland and the Benelux countries, and ADOPT A GUY has been registered in the European Union, Switzerland and China. In particular the International Registration for ADOPT A GUY covering the European Union came into effect on 19 March 2010.

The Disputed Domain Name was registered on 25 February 2008. On the same day the Respondent sent the following email (in French, the below is a free translation) to those responsible for running the website www.adopteunmec.com:

*"Simon,
I just come to discover your site. It is magnificent.
After Yahoo, there was Google.
After Myspace, there was Facebook.
After Meetic, there will be Adopteunmec!
Well, at any rate, it is that we hope - you for many, me too.
But, I do not write to you to make dream about future millions which you go to earn.
I would like to know if it could interest you to make translate the site for England (my native country), even create an English nearby web site www.adoptaguy.co.uk of which I hold the domain name.
You have already written all the code. Just needs to make translate texts, and make PR and after marketing.*

And still, if you do not make it, the other one is going to make it very fast.

Thus, if you look for somebody to translate the site, and supply you with the domain name ideal for the English market, do not hesitate to contact me for more information.

I really believe in your product (originality, modern, good humor and moved), thus if you have no resources at this moment to make it translate, I imagine that we can always settle while waiting for future profits which an English version can bring.

*Best regards,
Trevor Eccles”*

The Disputed Domain Name is currently pointing to a registrar holding page.

5. Parties' Contentions

Complaint

Complainant's Rights

First of all the Complainant gives brief details of its internal company restructuring and corporate name changes in order to explain why the Complainant itself was only incorporated in September 2009 and why the ADOPT A GUY trade mark was assigned from one related entity to another. In particular the Complainant explains that a company called Global Electronic Business (GEB) originally ran the www.adopteunmec.com website, but after the Complainant was incorporated it became GEB's holding company and GEB eventually became AUM.

The Complainant argues that, even though it registered the trade marks ADOPTE UN MEC and ADOPT A GUY in September 2009, it has actually used the trade mark ADOPTE UN MEC since it launched its French website in 2007 and the trade mark ADOPT A GUY since it registered the domain name <adoptaguy.com> on 6 March 2009.

According to the Complainant, it has therefore used the trade marks in question for a non-negligible period of time and in a recurrent manner to promote the website www.adopteunmec.com in France and its English version www.adoptaguy.com abroad.

The Complainant argues that the trade marks ADOPTE UN MEC and ADOPT A GUY are recognized by internet users the world over as referring to the Complainant's products and services. This can be seen in particular from press reviews and online videos, or the results obtained from the most popular search engines.

Abusive Registration

The Complainant argues that the Disputed Domain Name is abusive for four reasons, as set down in the Policy as follows:

- *The Respondent has registered or otherwise acquired the Domain Name primarily for the purpose 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 (paragraph 3(a)(i)(A))*

The Respondent registered the Disputed Domain Name over a year after the Complainant launched www.adopteunmec.com. On the same day the Respondent sent the email set out in Section 4 above. The Complainant did not wish to work with the Respondent and so was forced to concentrate on the development of its US website, www.adoptaguy.com.

The Complainant therefore argues that, even though the Respondent did not make an explicit offer to sell the Disputed Domain Name, it was clear from the email that he was hoping to profit from collaboration with the Complainant.

- *The Respondent has registered or otherwise acquired the Domain Name primarily as a blocking registration against a name or mark in which the Complainant has Rights (paragraph 3(a)(i)(B))*

The Complainant states that the Respondent blocked all possible development by the Complainant of the mark ADOPT A GUY in the UK by registering the Disputed Domain Name. The Respondent's prior knowledge of the market is revealed by the comments in his email referring to other dating websites.

The Complainant points out that the Respondent has never responded to the Complainant's settlement proposals, thus blocking the Complainant's ability to move forward.

- *The Respondent has registered or otherwise acquired the Domain Name primarily for the purpose of unfairly disrupting the business of the Complainant (paragraph 3(a)(i)(C))*

The Complainant argues that the Respondent registered the Disputed Domain Name because it corresponded to the literal English translation of a trade mark which he knew was being successfully used in a country adjacent to England.

The Complainant was therefore deprived of any opportunity to penetrate the UK market, which necessitates a separate website for technical reasons (namely the requirement for personnel who speak the relevant language and who are able to deal with requests from users in a compatible time slot), hence why the Complainant was unable to develop the UK market using <adoptaguy.com>. The Complainant's main competitors, such as Easyflirt or Meetic, also have domain names ending in .CO.UK.

In the Complainant's opinion the Respondent could therefore not have been unaware that his registration of the Disputed Domain Name would unfairly disrupt the Complainant's business.

- *It is independently verified that the respondent has given false contact details to Nominet (paragraph 3(a)(iv))*

The Complainant argues that the Respondent's postal address was incomplete.

Response

The Respondent states that when he registered the Disputed Domain Name the Complainant did not exist. GEB operated the website www.adopteunmec.com, which is designed exclusively for and aimed exclusively at French speaking people. To the best of the Respondent's knowledge, the Complainant had no intention of extending its business activities beyond the French speaking world.

The Respondent asserts that he has worked for a number of internet companies as a bilingual copywriter and online user-experience expert and gives examples of various companies for which he has worked.

The Complainant did not reply to the Respondent's email but instead sent several letters by registered mail to the Respondent (the first of which was on 22 December 2009) accusing the Respondent of forgery, ordering the Respondent to immediately transfer the Disputed Domain Name to the Complainant and threatening to sue the Respondent if he did not comply within 15 days.

The Respondent asserts that the four arguments for abuse set out by the Complainant are at best mistaken and at worst knowingly false, made with the aim of reverse domain name hijacking:

- *The Respondent has registered or otherwise acquired the Domain Name primarily for the purpose 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 (paragraph 3(a)(i)(A))*

According to the Respondent, the Complainant's claims are false for two reasons:

- (i) The Respondent had absolutely no reason to believe that GEB had any plans to develop outside its native French territory; and
- (ii) Given the nature of the digital world, the Respondent's remarks were nothing less than the obvious truth that things happen very quickly and that opportunities are either seized or missed.

The Respondent willingly concedes that the proposed translation services would certainly not have been non-paying. In fact, invariably, he has been paid by all the companies for which he has provided previously agreed

upon services. The Respondent considers it to be standard business practice to be paid for such services.

However the Respondent states that it is not correct that the consideration demanded was out of proportion, simply because the Respondent did not ask for any consideration. Instead the Complainant did not reply, and acquired the competing domain name <adoptaguy.com>. It then sent a registered letter delivered by a process server accusing the Respondent of forging the domain name that the Complainant had in the meantime acquired, and threatening to sue him if he did not transfer the Disputed Domain Name.

- *The Respondent has registered or otherwise acquired the Domain Name primarily as a blocking registration against a name or mark in which the Complainant has Rights (paragraph 3(a)(i)(B))*

The Respondent asserts that he did not register the Disputed Domain Name with the intention of blocking the Complainant from using it. It was with the intention of setting up an English language dating site and discussing the possibility of working together to do this.

It is true that the Respondent has never used the Disputed Domain Name. This is because, after concluding from the Complainant's non-response that it was not interested in working with the Respondent to develop an English-speaking site, the Respondent attempted to acquire financial backing to develop the site. This was very difficult in 2008-2009. However, it then appeared to be completely impossible after the Complainant registered a competing domain reflecting the name suggested to it by the Respondent, and posted on it that it was developing its own "Adopt A Guy" website.

The Respondent would like it to be noted that the Complainant is making two contradictory accusations against the Respondent, namely accusing him of:

- (i) buying the domain name in order sell it to the Complainant
- (ii) refusing to sell the domain name to the Complainant.

According to the Respondent, the settlement proposals mentioned by the Complainant were made only after the Complainant admitted that its accusations of forgery against the Respondent were incorrect.

However, the Respondent states that he did in fact attempt to find a resolution to the dispute. According to the Respondent, after the Complainant quoted a number of legal decisions, the Respondent showed that they had no relevance to the Disputed Domain Name and instead asked the Complainant to cite a decision that accurately reflected the present circumstances. If the Complainant did this the Respondent agreed to immediately transfer the Disputed Domain Name at no cost. However the Complainant ignored this and again threatened to sue the Respondent.

As far as the Complainant's rights are concerned, the Respondent argues that, unless the Complainant believes that owning a domain name gives it an automatic right to own the translation of that domain name into the language of whatever market the Complainant decides to enter at any future date, then the Respondent does not know what right the Complainant is referring to.

- *The Respondent has registered or otherwise acquired the Domain Name primarily for the purpose of unfairly disrupting the business of the Complainant (paragraph 3(a)(i)(C))*

The Complainant argued that the registration of a domain name ending in .CO.UK deprived it of any opportunity to penetrate the English market. However the Respondent points out that at the time that the Disputed Domain Name was registered, the Complainant was operating a website exclusively aimed at French speakers which was in no way disrupted by the Respondent's registration of the Disputed Domain Name.

- *It is independently verified that the respondent has given false contact details to Nominet (paragraph 3(a)(iv))*

The Respondent points out that the address was in fact correct and he did receive the Complainant's letter.

In view of the Complainant's behaviour outlined above, the Respondent argues that the Complaint is an attempt at reverse domain name hijacking.

Reply

The Complainant focuses on the following eight points raised by the Respondent:

- *The identity of the Complainant*

The Complainant confirms that it was not incorporated when the Respondent registered the Disputed Domain Name, but reiterates that this was due to the reorganisation of its company structure. It adds that it is now the registrant of the trade mark ADOPT A GUY which it exploits via the website www.adoptaguy.com.

- *The identity of the Respondent*

The Complainant argues that, regardless of whether the Respondent has worked for the companies listed in the Response, it is difficult to see how such companies would have agreed to engage the Respondent if he had first of all registered their domain name under .CO.UK, thereby using their trade mark without their prior authorization.

- *The Complainant's unmistakable intent to develop its concept internationally*

The Respondent claims several times that there was nothing which could have allowed him to anticipate the Complainant's intention of extending its business activities beyond the French speaking world. However, the Complainant points out that all the websites mentioned in the Respondent's email on the day that the Disputed Domain Name was registered were successful internationally only after first having tested their expansion nationally. Thus in the Complainant's opinion the Respondent's email confirms that he was perfectly well aware that he was obstructing the Complainant's development on the English market.

- *The Respondent's request for financial consideration*

In his Response the Respondent maintains that he never asked for any commission. However the Complainant argues that, by effectively requesting financial consideration based on the future profits of the English version of the website, the Respondent demanded a price which far exceeded translation expenses or expenses for registering the Disputed Domain Name.

Given that the Complainant did not wish to work with the Respondent, in the Complainant's opinion the only solution was to pay the Respondent a disproportionate price for the Disputed Domain Name. The disproportionate nature of the financial consideration demanded by the Respondent also emerges expressly from his refusal of the Complainant's settlement proposals of up to £2,000.

- *The settlement proposals made by the Complainant*

The Complainant argues that it is not contradictory to state that the Respondent bought the Disputed Domain Name to sell it to the Complainant and then to state that the Respondent refused to do this, because the Respondent's refusals were simply aimed at raising the price.

The Complainant also asserts that it did not offer to settle because its accusations were false, but only to achieve a quick end to the dispute. The Complainant has never questioned the rights that it could assert under the Policy.

- *The rights as regards potential translations*

The Complainant asserts that its ADOPTE UN MEC trade mark was intended to be protected in French and in English, even if it was only filed afterwards.

- *The absence of any case law*

The Complainant notes that the Respondent was also unable to produce any case law applicable in an identical situation, and argues that the absence of case law cannot allow the Respondent to breach the Policy.

- *The Respondent's address*

The Complainant abandons these claims.

6. Discussions and Findings

General

Under paragraph 2(a) of the Policy, for the Expert to order a transfer of the Disputed Domain Name the Complainant is required to demonstrate, on the balance of probabilities, both of the following elements:

"(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."

Complainant's Rights

Complainant's Rights at the time the Complaint was filed

The Policy defines Rights as "*rights enforceable by the Complainant, whether under English law or otherwise*".

In this case the Complainant has provided evidence that it owns various registered trade marks in the term ADOPT A GUY (see the Factual Background at Section 4 above), and so has proved that it has Rights as defined by the Policy

The Policy also stipulates that the name or mark in which the Complainant has Rights (ADOPT A GUY) must be identical or similar to the Disputed Domain Name (adoptaguy.co.uk). It is accepted practice under the Policy to discount the .CO.UK suffix, and so the only difference between the Domain Name and the Complainant's registered trade marks is the fact that the trade marks are figurative marks consisting of an outline of a woman pushing a trolley into which a man is falling backwards, with the words ADOPT A GUY appearing in capital letters underneath. However the Expert does not feel that this is a significant difference, especially because the words ADOPT A GUY feature prominently as text in the overall design. The Complainant's trade marks in ADOPT A GUY and the Disputed Domain Name are thus similar to one another.

Complainant's Rights at the time the Disputed Domain Name was registered

Strictly speaking it is not necessary to consider this issue in relation to paragraph 2(a)(i) of the Policy. It is important to note that there is no requirement in the Policy for the Complainant's Rights to pre-date the registration of the Disputed Domain Name. However, if the Complainant's Rights were not yet in existence when the Disputed Domain Name was registered, this is likely to have an impact on the issue of Abusive Registration under paragraph 2(a)(ii), examined below. It

is thus useful to assess exactly what the Complainant's Rights were at the time of registration of the Disputed Domain Name.

At the time when the registration of the Disputed Domain Name took place on 25 February 2008, the Complainant's Rights (as set out above and as evidenced in the Complaint) had yet to come into existence. However, on the date when the Disputed Domain Name was registered, the Complainant had been operating the www.adopteunmec.com website for just over a year. Given the surrounding facts and circumstances, the Expert is of the opinion that the Complainant could certainly lay claim to unregistered rights in the term ADOPTE UN MEC at the time that the Disputed Domain Name was registered. This is because, under French law, use of a domain name in such circumstances for such a period of time would at least give the registrant a basis upon which to bring an action based on Article 1382 of the French Civil Code (the definition of "Rights" under the Policy is not limited to rights under English law).

Whether or not the Complainant's unregistered Rights in the term ADOPTE UN MEC would extend to translations into other languages is more doubtful, and the Expert would not go as far as to find that the Complainant had unregistered rights in the term ADOPT A GUY at the time that the Disputed Domain Name was registered.

Again it is not strictly necessary under the terms of the Policy to consider whether the Complainant's Rights in ADOPTE UN MEC could be said to be similar to the Disputed Domain Name (adoptaguy.co.uk), but it is a useful exercise for the purposes of the decision.

The Expert notes that in a previous case under the Nominet Policy, *Conorzio del Prosciutto di Parma v Vital Domains Limited, DRS 00359*, the domain names at issue were <parmaham.co.uk> and <parma-ham.co.uk>, but the complainant only had rights in the terms PROSCIUTTO DI PARMA and PARMA, and not PARMA HAM. The expert in the case commented that:

"The English translation of Prosciutto di Parma is Parma Ham. The Expert does not consider it essential for the Complainant to prove trade mark ownership of the name "Parma Ham" for it to succeed on this issue. In assessing whether or not a name or mark is identical or similar to a domain name, it is appropriate to discount the domain suffix <co.uk> which is of no relevant significance and wholly generic. The Expert finds that, for the purposes of the Policy, the Complainant does have Rights in respect of names or marks which are similar to the Domain Names."

This position was also confirmed on appeal (although the nature of the appeal was not in relation to this issue) where the Appeal Panel commented:

"The Panel concludes that those Rights identified above are in respect of a name or mark (whether it be "Parma ham" as a translation of "Prosciutto di Parma" or the name or mark "Prosciutto di Parma" itself) which is similar to both parmaham and parma-ham, the Domain Name suffixes being ignored for this purpose."

Whilst the provisions of the Nominet Policy are quite different to those of the Uniform Domain Name Dispute Resolution Policy (UDRP) which covers, amongst

other things, domain names registered under .COM, the UDRP requires a complainant to prove that the domain name at issue is identical or confusingly similar to a trade mark or service mark in which the complainant has rights. Given that this is perhaps more onerous than the Nominet Policy (which only requires similarity, not confusing similarity), the Expert considers that UDRP precedents are of relevance when considering the issue of similarity under the Nominet Policy, in particular the following:

Dr. Ing, h.c. F. Porsche AG v. Moniker Privacy Services / Sergey Korshunov, WIPO Case No. D2011-0100, where the domain name in question was <порше.com> and this was found to be confusingly similar to the complainant's trade mark in the term PORSCHE (the domain name being the Russian Cyrillic transliteration).

Société pour l'Oeuvre et la Mémoire d'Antoine de Saint Exupéry Succession Saint Exupéry v D'Agay v. Perlegos Properties, WIPO Case No. D2005-1085, where the domain name in question was <thelittleprince.com> and this was found to be confusingly similar to the Complainant's trade mark in the term LE PETIT PRINCE (the domain name being the English translation).

Compagnie Generale Des Etablissements Michelin - Michelin & Cie. v. Graeme Foster, WIPO Case No. D2004-0279, where the domain name in question was <redbook-recipes.com> and this was found to be confusingly similar to the Complainant's trade mark in the term LE GUIDE ROUGE (the domain name being the English translation plus an additional word).

Wal-Mart Stores Inc v Weiqui Zhong, ADNDRC Case No. HK-0400051, where the disputed domain name was <woerma.com> and this was found to be confusingly similar to the Complainant's trade mark in Chinese characters.

There are no hard and fast rules and each case turns on its own facts, but the common principle that seems to emerge from these decisions is that domain names representing translated versions of trade marks will be deemed to be confusingly similar if they are recognised as such by a considerable part of the public.

Given that "adopt a guy" is the obvious English translation of the French phrase "adopte un mec" and that this would be immediately apparent to anyone with a decent command of both languages, the Expert is prepared to find that ADOPTE UN MEC (in which the Complainant has Rights) is similar to the Disputed Domain Name.

As a result the Expert finds that paragraph 2(a)(i) of the Policy is satisfied and that the Complainant has Rights in respect of a name which is similar to the Disputed Domain Name, and that this was the case both at the time when the Disputed Domain Name was registered and at the time when the Complaint was filed.

Abusive Registration

Moving on to paragraph 2(a)(ii) of the Policy, Abusive Registration is defined in paragraph 1 of the Policy to mean a domain name which:

- "(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."

Paragraph 3(a) of the Policy sets out a list of five factors which may be evidence of Abusive Registration. In their submissions the Parties discussed the meaning of paragraphs 3(a)(i)(A) – (C) and (iv) at length, but in the Expert's opinion the reason for the lengthy discussions is that the Respondent's behaviour does not really fall squarely within any one of these situations.

Paragraph 3(a)(i)(A) requires the Respondent to have registered the Disputed Domain Name primarily with the aim of reselling it for an inflated price, which does not appear to be the case here because the Respondent's primary aim was to obtain business collaboration (although resale may have been a possibility if this failed).

Paragraph 3(a)(i)(B) requires the Respondent to have registered the Disputed Domain Name primarily as a blocking registration against a name in which the Complainant had Rights, but, as discussed at length above, at the time of registration the Complainant had no Rights in the term ADOPT A GUY (even though this could be said to be similar to ADOPT UN MEC in which the Complainant did have Rights).

Paragraph 3(a)(i)(C) requires the Respondent to have registered the Disputed Domain Name primarily for the purpose of unfairly disrupting the business of the Complainant, but again this does not appear to have been the Respondent's primary aim, even if it was one of the eventual consequences. The Complainant finally abandoned its arguments under paragraph 3(a)(iv).

However the five factors set out at paragraph 3(a) are only examples of what may constitute Abusive Registration, and the list is not exhaustive. The Expert is free to consider what is and what is not abusive, as long as it falls under the terms of paragraph 2(a)(ii) of the Policy.

The Respondent seems to be of the opinion that, because he registered the Disputed Domain Name before the Complainant had even decided to use the term ADOPT A GUY, and because he has never used it, his behaviour does not fall foul of the Policy.

In this regard it should be noted that, although abusive behaviour under the Policy and trade mark infringement are not far apart, they are not always one and the same thing. One key difference is that, unlike the rather more objective nature of trade mark infringement, the Respondent's mental state is also a relevant factor when considering Abusive Registration (see the reasoning of the Appeal Panel in *Verbatim Ltd v Michael Toth, DRS 04331*).

Thus if the Respondent was denying all knowledge of the Complainant and its website at the time of registration of the Disputed Domain Name and claimed to

have registered the Disputed Domain Name completely independently of the Complainant's activities, the issues would certainly be much more complicated and the case may not necessarily have had the same outcome. Moreover it is clear that the Complainant's Rights in the term ADOPTE UN MEC at the date of registration of the Disputed Domain Name were not strong enough to prevent any and all third parties from registering a translation of that term under a different top level domain name extension.

Each case turns on its own facts and the Respondent's email on the day that the Disputed Domain Name was registered (set out in full in Section 4 above) clearly underlines both the Respondent's awareness of the Complainant and the reason why he registered the Disputed Domain Name. The Respondent's motivation is therefore clear and is a major factor that should be taken into account when considering what constitutes Abusive Registration under the Policy.

Having considered all the surrounding circumstances, in the Expert's opinion the Respondent's behaviour amounts to precisely the kind of abuse that the Policy is designed to prevent. In short, the Respondent became aware of the Complainant's success in France, realised that in all likelihood it would shortly wish to expand into English speaking markets, saw an opportunity to profit from this and registered the Disputed Domain Name. Given that the Complainant understandably wished to work with its preferred advisors it was effectively held to ransom by the Respondent, and the only way for the Complainant to obtain the Disputed Domain Name without resorting to proceedings would have been to offer the Respondent enough money for him to agree to sell it. As discussed above it seems as though the Respondent's primary aim was to share in any eventual profits linked to the Complainant's expansion into the UK market, rather than to sell the Disputed Domain Name for a disproportionate amount, but this was effectively the inevitable consequence of the Complainant's wish to work with its existing advisors.

In conclusion, the Expert finds that the Respondent's behaviour falls squarely within both limbs (i), and (ii) of the definition of "Abusive Registration", which respectively deals with registration and use (even though only abusive registration OR use is required under the Policy, not both). In the Expert's opinion, the registration of the Disputed Domain Name took advantage of and was unfairly detrimental to the Complainant's unregistered Rights in the term ADOPTE UN MEC at the time the Disputed Domain Name was registered. Contrary to the Respondent's assertions, the translation of ADOPTE UN MEC to ADOPT A GUY is not something that requires much thought or invention, and the two phrases would be seen as identical by speakers of both French and English. Similarly, although the Disputed Domain Name has never been actively used by the Respondent, such non-use is effectively detrimental to the Complainant's current registered Rights in the ADOPT A GUY trade mark.

In the Expert's opinion, monitoring online businesses that are doing well on a national level and then proceeding to register translations of their domain names in countries where they are likely to expand is potentially quite lucrative, but it can hardly be termed an honest business practice as far as brand owners are concerned and so is to be strongly discouraged.

In conclusion, the Expert has considered the admissibility, relevance, materiality and weight of the evidence as a whole and is satisfied that the Complainant has succeeded in proving, on balance of probabilities, that the Domain Name is an Abusive Registration in accordance with paragraph 2(a)(ii) of the Policy.

7. Decision

In light of the above findings, namely that the Complainant has Rights in a mark 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 be transferred to the Complainant.

Signed: Jane Seager

Dated: 2 June 2011