

DISPUTE RESOLUTION SERVICE**D00017826****Decision of Independent Expert**

Jaguar Land Rover Limited

and

Paul Vandermolen

The Parties

Complainant: Jaguar Land Rover Limited

Abbey Road

Whitley

Coventry

CV3 4LF

United Kingdom

Respondent: Paul Vandermolen

Bay Tree Cottage

31, The Ridgeway, Automotive Services,

Stanmore, HA7 4BE

United Kingdom

The Domain Name

jaguarrepairer.co.uk

Procedural History

1. 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.
2. The following is a summary of the procedural steps in this case:-

05 August 2016	Complaint received by Nominet;
09 August 2016	Complaint validated by Nominet;
17 August 2016	Notification of Complaint sent to the parties;
30 August 2016	Response received by Nominet;
30 August 2016	Notification of Response sent to the parties;
31 August 2016	Reply received by Nominet;
31 August 2016	Notification of Reply sent to the parties;
31 August 2016	Mediator appointed;
05 September 2016	Mediation started;
12 May 2017	Mediation failed;
18 May 2017	Expert decision payment received.

Factual Background

3. The Complainant is the manufacturer of motor vehicles under the Jaguar and Land Rover brands. Until recently, the Respondent has been using the Domain Name to host a website which invites members of the public to visit the website of Ultimate Cats Ltd. ('UCL') offering various Jaguar-related goods and services. The Respondent stopped using the Domain Name for that purpose

following receipt of a letter of complaint from solicitors acting for the Complainant.

Parties' Contentions

4. The Complaint embraces several other related domain names in addition to the Domain Name. Three of these are service-related names such as 'jaguarservicecentre.co.uk' and each is registered in the name of a Mr Victor Doudko ('Mr Doudko'). The Complaint alleges that a single trading entity, i.e. UCL, is using the Domain Names and these further domain names. The Complainant invited Nominet to consolidate this Complaint with DRS proceedings he then proposed in respect of these other domain names. Nominet declined to direct consolidation. This decision therefore decides only the complaint made in respect of the Domain Name, i.e. jaguarrepairer.co.uk. The other domain names were included in Complaint DRS00017825. The decision of the DRS Expert, Clive Trotman, dated 2 June 2017 relates to that Complaint.
5. The Complaint is in the nature of an 'omnibus' statement of case. As appears from the following summary of the document, the case has in large measure been advanced in respect of one of the other domain names, namely jaguarservicecentre.co.uk. In essence, however, the concern is the same in respect of the Domain Name and each of these other domain names.
6. In summary the Complaint alleges, -
 - 6.1 The Complainant is a globally renowned manufacturer of premium saloon and sports cars, sports utility vehicles (SUVs) and all-wheel drive vehicles and employs over 25,000 people in the UK.
 - 6.2 The Complainant manufactures its Jaguar and Land Rover vehicles at a number of locations in the UK and operates through a network of authorised dealers selling its new and approved used cars and parts therefor and providing a range of related products and services including repair and maintenance services.

6.3 In the course of its activities the Complainant has built up extensive intellectual property rights. It owns the following trade marks, -

- UK trade mark no. 625805 JAGUAR in Class 12 (motor land vehicles) registered on 13 October 1943;
- UK trade mark no. 1292098 JAGUAR in Class 37 (maintenance services included in Class 37, repair services, cleaning, painting and polishing, all for motor land vehicles, and for parts and fittings thereof) registered on 28 September 1990.

The Complainant also owns common law rights arising out of its ownership of eight domain names relevant to the JAGUAR and JAG trade marks. These include jaguar.co.uk, jaguar.com and jaguarterestorations.co.uk.

6.4 The Complainant's trade mark in the word JAGUAR is the dominant and distinctive element of the Domain Name. The remainder of the Domain Name is a 'descriptive term for a centre which provides servicing services.'

6.5 The use of the Domain name complained of is expressed in the following terms, -

'The Respondent is using the Domain Name to direct to a webpage which then directs to a commercial website retailing used vehicles and vehicle parts, as well as providing vehicle repair and maintenance services. Such services are identical to the services the Complainant provides under the JAGUAR and JAG brand. An extract taken from the Respondent's web site can be seen at Annex 3.'

6.6 Annex 3 consists of a single web page, which states, -

‘Jaguar Repairer Ltd are now renamed as Ultimate Cats Ltd. The reason for this is that Jaguar are exercising their right to sue anyone using the words Jaguar/Jag and some of their model designation letters ie XJ, etc. as they have intellectual property copyright protection on them.

After receiving a very stern letter from their solicitors we have decided not to ‘lock horns’ with a huge multinational corporation with seemingly limitless funds and just capitulate.

Ultimate Cats Ltd are still the same company as before (with the same VAT and registration numbers), servicing and repairing Jaguar cars using only genuine Jaguar parts

Everyone has the freedom to have their Jaguar serviced away from the main dealer network without invalidating the manufacturer’s warranty [d]ue to Block Exemption Regulation 14002002. Please see our new website on www.ultimatecats.co.uk and like us on Facebook to get current great deals.’

6.7 The Complainant has also discovered that a number of other jaguar-related domain names have been registered by Mr Doudko, such as jaguarservicecentre.co.uk. These must be related to the Domain Name, because visitors using these other domain names are also re-directed to <http://www.ultimatecats.co.uk>, the registered owner of which is Andrea Vandermolen, who must be related to the Respondent in this case. Annexed to the Complaint are extracts from these other web sites, which are each in the same form and show the nature of their commercial operations.

6.8 The Complainant is simultaneously filing ‘action’ relating to the domain names owned by Mr Doudko which contain the Complainant’s trade marks. In the light of the connection between the Respondent and Mr Doudko through UCL, the Complainant requests Nominet to consolidate all complaints and issue one decision.

- 6.9 ‘The Respondent is not an authorised dealer of the Complainant’s vehicles, nor ... an authorised ‘Service Centre’ nor .. franchisee.’ Therefore, he has no authority to use the JAGUAR trade marks. ‘The use of the Domain Name jaguarservicecentre.co.uk which contains the JAGUAR trade mark to redirect consumers to a web site which is not connected to the Complainant but which provides identical/similar goods to those which the Complainant provides and for which the Complainant owns registered trade mark rights is likely to confuse consumers.’
- 6.10 As a result, ‘the consumer is likely to believe that the Domain Name jaguarservicecentre.co.uk is registered to, operated by, connected to or authorised/endorsed by the Complainant.’ Therefore, in view of paragraph 3(a)(ii) of the DRS Policy, the registration is abusive.
7. Although specific reference is made to jaguarservice.co.uk as set out in paragraphs 6.9 and 6.10 above, the complaint in respect of the Domain Name, as I understand it to be, is in essence no different.
8. The Response takes the form of a letter written by Paul Vandermolen on behalf of Independent Jaguar Service Centre, UCL. In summary the Response alleges,
-
- 8.1 Mr Vandermolen runs a small independent garage specialising in the repair and servicing of Jaguar vehicles and no others. For many years he had been trading as Jaguar Repairer Ltd. and never tried to pass off his company as an approved agency. The words, ‘independent specialists’ are on his website and also appear on the top of the company’s headed paper.
- 8.2 He received correspondence from Jaguar’s solicitors explaining that he could not lawfully use the name Jaguar on his website, as Jaguar own

that name. So reluctantly he renamed the company Ultimate Cats Ltd. He cannot afford to fight a large enterprise with limitless funding.

8.3 The websites complained of are now suspended. They are not for sale as the Respondent believes that in time he will be able to use them (as in the case of the Block Exemption), as they explain what his business actually does. "Once surrendered they will never be available to me again, so for now I want to put them in a 'bottom draw.'"

8.4 He repeats that he has never attempted to pass off his company as anything other than an independent specialist and he never will.

8.5 His customers are fully aware that he does not operate a dealership. He carries out accident repairs for well-known insurance companies such as Aviva and also carries out warranty work for the AA and RAC. They are all aware that his garage is not an approved repairer but an independent specialist.

8.6 The type of client he has would not or could not pay to have their cars worked on at a franchised dealership. He considers that he is helping Jaguar by maintaining these older cars.

8.7 The parts he uses are all genuine items, which have been supplied to him by various Jaguar franchises. He does not sell cars and if asked he refers customers to an approved franchise.

9. The Reply alleges as follows, -

9.1 The position under the Block Exemption is irrelevant. What matters is the legal position at the present point in time. The Respondent's position is akin to saying that it is acceptable to keep pirated copies of films in case the law of copyright should change.

- 9.2 The only reason these web sites now are not operational is as a result of the Complaint filed in this case. Continued ownership of these domain names remains a risk to the Complainant. The Respondent could recommence use of the domain names and/or sell them to a third party.
- 9.3 Although the Respondent has asserted that he has never attempted to pass off his company as anything other than an independent specialist, on the filing of this Complaint the websites at <http://www.jaguarservicecentre.co.uk>, <http://www.jagservicing.co.uk>, <http://www.jaguarservicecenter.co.uk> resolved to <http://www.ultimatecats.co.uk>, so rendering ‘the Domain Names’ abusive registrations.
- 9.4 The Respondent’s comments about not wishing to surrender the domain names and to ‘put them in a bottom draw’ show that they have been registered as blocking registrations for the purposes of the DRS Policy.

Discussion and Findings

10. The DRS Policy that applies to this Complaint is version 3, because the Complaint was filed before 1 October 2016. A Complainant is required under subparagraphs 2a. and 2b. of that DRS Policy (“the Policy”) to prove on the balance of probabilities that the following two elements are present, namely: -

- 10.1 he has Rights in respect of a name or mark which is identical or similar to the Domain Name; and
- 10.2 the Domain Name, in the hands of the Respondent, is an Abusive Registration.

Rights

11. By paragraph 1 of the Policy, -

“Rights means rights enforceable by the Complainant, whether under English law or otherwise, and may include rights in descriptive terms which have acquired a secondary meaning.”

12. At the date on which the Complaint was filed the Complainant owned UK trade mark no. 625805 JAGUAR in Class 12 (motor land vehicles). (The trade mark fell for renewal on 13 October 2016.) The Complainant is the current owner of UK trade mark no. 1292098 JAGUAR in Class 37 (maintenance services included in Class 37, repair services, cleaning, painting and polishing, all for motor land vehicles, and for parts and fittings thereof). Therefore, in view of the position as to trade mark ownership, it is not necessary to decide whether the Complainant also owns common law rights in passing off.

13. The word ‘Jaguar’ is the dominant and distinctive part of the Domain Name, i.e. jaguarrepairer.co.uk. The word ‘repairer’ is an adornment to the dominant and distinctive aspect of the Domain Name.

14. Therefore, in all the circumstances, I find that the Complainant has Rights in respect of a name or mark, namely JAGUAR, which is similar to the Domain Name. Accordingly, the Complainant has established Rights.

Abusive Registration

15. By paragraph 1 of the Policy, -

“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;”

Paragraph 3 of the Policy states –

‘3. Evidence of Abusive Registration

a. A non-exhaustive list of factors which may be evidence that the Domain Name is an Abusive Registration is as follows:-

i. Circumstances indicating that the Respondent has registered or otherwise acquired the Domain Name primarily:

A....

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.

ii. 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.

.....’

Paragraph 4 of the Policy states, -

‘4. How the Respondent may demonstrate in its response that the Domain Name is not an Abusive Registration.

a. A non-exhaustive list of factors which may be evidence that the Domain Name is not an Abusive Registration is as follows:

i. Before being aware of the Complainant’s cause for complaint (not necessarily the ‘complaint’ under the DRS), the Respondent has:

- A. *used or made demonstrable preparations to use the Domain Name or a domain name which is similar to the Domain Name in connection with a genuine offering of goods or services;*
 - B. *been commonly known by the name or legitimately connected with a mark which is identical or similar to the Domain Name; or*
 - C. *made legitimate non-commercial or fair use of the Domain Name; or*
- ii. *The Domain Name is generic or descriptive and the Respondent is making fair use of it;*

.....’

16. There have been a number of cases under the DRS which have considered the use of a trade mark adorned with a modifying term to denote a business selling goods or services of a third-party trade mark owner. The principles relevant to such cases are set out in the decision of the DRS Appeal Panel in *wwe-shop.co.uk*, DRS00016416. The Appeal Panel stated, -

“In the very first Appeal case dealt with by Nominet’s DRS procedure - *Seiko UK Limited v Designer Time/Wanderweb* (DRS 00248) (the “Seiko case”) one of the central issues concerned the use by a trader of trade marks modified with the addition of the word “shop”. The domain names in issue were <seiko-shop.co.uk> and <spoonwatchshop.co.uk> and although under a previous version of the Policy the case is clearly directly relevant to the present case. In the Seiko case the Panel said as follows:

“There are many different traders who may wish to make use of the trade mark of a third party e.g. the proprietor’s licensee (exclusive or non-exclusive), a distributor of the proprietor’s goods (authorised, unauthorised or ‘grey market’), the proprietor’s franchisee, or the proprietor’s competitor engaged in comparative advertising. There are an infinite array of different factual circumstances which could arise under each of these categories. Accordingly, we are not able to – and we are not going to attempt to – lay down any general rules governing when a third party can make ‘legitimate’ use of the trade mark of a third party as a domain name. All we can do is decide whether the Expert came to the right conclusion on the evidence and submissions before him. Essentially Seiko’s complaint is that Wanderweb’s registration of the Domain Names has gone beyond making the representation “we are a shop selling Seiko / Spoon watches” and is instead making the representation(s) “we are The Seiko/Spoon watch Shop” or “we are the official UK Seiko/Spoon watch shop”. The latter form of representation is what we understand the ECJ to be referring

to when, in the ECJ case C-63/97 BMW v. Deenik, it speaks of creating “the impression that there is a commercial connection between the other undertaking and the trade mark proprietor”. An example of a domain name which, in the opinion of some members of the Panel, would make the former but not the latter representation was given by the Expert in paragraph 7.28 of the Decision: “wesell-seiko-watches.co.uk”.

The Panel agrees that if there is support in the evidence for the suggestion that the Domain Names make, or are liable to be perceived as making, the latter representation (i.e. that there is something approved or official about their website), this would constitute unfair advantage being taken by Wanderweb or unfair detriment caused to Seiko. The Panel takes the view that in the light of the evidence before the Expert and in the light of the submissions before him and on appeal, it is just as unfair for Wanderweb to appropriate Seiko’s trade marks as a domain name.”

Following on from the Seiko case a subsequent Appeal Panel in *Toshiba Corporation and Power Battery Inc.* (DRS 07991), an appeal decision concerning the domain name <toshiba-laptop-battery.co.uk>, considered the principles applicable to these types of case in more general terms. The Panel stated:

“The view of the majority of the Panel is that the Complainant has not demonstrated, on the balance of probabilities, that the Respondent’s use of the Domain Name would be likely to give rise to any such confusion. The majority panellists do not consider that either the Domain Name itself or the results of a search of the terms in question would be likely to result in any such confusion in the mind of the average Internet user, bearing in mind that a typical search page includes a short description of each “hit” as well as the actual domain name. So far as the name itself is concerned, the majority Panel believes that the Domain Name in this case falls into a very different category from cases involving the “unadorned” use of a trade mark (e.g. <toshiba.co.uk>), where Internet users may be presumed to believe that the name belongs to or is authorised by the complainant. In this case, two extra hyphenated words turn the domain name as a whole into a rather clear description of the main goods on offer at the website (replacement batteries for Toshiba laptop computers). In addition, this lengthy “adornment” may reasonably be seen as atypical of the usage of major rights owners, who are free to use much shorter unadorned names.”

In the *toshiba-laptop-battery.co.uk* appeal four criteria were identified as being relevant to the determination of whether a reseller’s use of a domain name incorporating a complainant’s trade mark/name is abusive, as follows:

1. It is not automatically unfair for a reseller to incorporate a trade mark into a domain name and the question of abusive registration will depend on the facts of each particular case.
2. A registration will be abusive if the effect of the respondent’s use of the domain name is falsely to imply a commercial connection with the complainant.

3. Such an implication may be the result of “initial interest confusion” [footnoted – ‘For further consideration of “initial interest confusion” see the Appeal Panel decision in *Lucasfilm Ltd., LLC and ABSCISSA.COM Limited* (DRS 15788)’] and is not dictated only by the content of the website.
4. Whether or not a commercial connection is implied, there may be other reasons why the reseller’s incorporation of the domain name is unfair. One such reason is the offering of competitive goods on the respondent’s website.

When addressing whether it would be fair to offer competing goods, the Panel said the following:

“The further issue, however, is whether the fact of the offering of competitive products on the Respondent’s website is sufficient to render the registration abusive, even in the absence of “initial interest confusion”. On this question, the Panel unanimously considers that, if and insofar as it is fair for a retailer to incorporate a trade mark into its domain name without the trade mark owner’s consent, to accord with the principles stated above that fairness is likely to be dependent upon the retailer only selling the trade mark owner’s genuine products. To do otherwise is likely to take unfair advantage of the Complainant’s rights by “riding on its coattails” for the benefit of the Respondent. This element of unfair advantage remains, even where little or no detriment to the Complainant has been demonstrated.”

It seems to the present Panel that the extent to which the incorporation of a modifying term into a domain name will result in the domain name not being confusing within the meaning of Paragraph 3.a.ii of the Policy depends upon the facts of a given case. The Panel does not think it is sensible to try to lay down rigid general rules directed at specific words or terms as cases will depend upon their own facts. However as a matter of broad principle, the Panel considers the position to be as follows in relation to cases where the complaint concerns a domain name where the alleged abuse is said to arise in respect of a website which is used to sell only the genuine goods or services of the complainant.

If:

1. a website is linked to a domain name; and
2. the website is used to sell only the genuine goods or services of a third party; and
3. the third party alleges the domain name is an Abusive Registration; and
4. the third party has relevant Rights in respect of a name or trade mark.

Then:

5. use of the name or trade mark concerned in unadorned form as a domain name is likely to amount to an Abusive Registration.
6. Use of the name or trade mark concerned is also likely to amount to an Abusive Registration if the name or trade mark is combined with a term or terms that results in a domain name which would readily be considered to be that of the owner of the name or trade mark concerned.
7. Such use is less likely to amount to an Abusive Registration if the name or trade mark concerned is combined with a term or terms that results in a domain name which would not readily be considered to be that of the owner of the name or trade mark concerned.

In stating these principles the Panel would add as follows:

8. These are not absolute rules, hence the use of the terms “likely” and “less likely” – all relevant circumstances need to be taken into account and other factors may be relevant and result in a different conclusion being reached. As well as the modifying term itself such factors could include for example: the strength or fame of the name or trade mark in question; the nature and price of the goods or services being offered; the sophistication or otherwise of the likely consumers of such goods or services; questions of licence or permission; and any relevant contractual arrangements between the parties. Further factors such as the nature, appearance and content of the website to which the domain name is linked, and the extent to which any disclaimers are used on that website, may also be relevant in a given case if it appears appropriate to consider the case on the basis of matters beyond initial interest confusion.

9. As stated above these principles apply where the website in question is selling only the goods or services of the owner of the name or trade mark concerned. If competing or counterfeit products are also or alternatively being sold then still further considerations may apply and a given domain name which would not amount to an Abusive Registration in accordance with these principles may nevertheless be found to be so when such additional considerations are taken into account.

It follows that in any given case the exact point at which a given domain name can be considered to be unobjectionable will depend upon all the facts, including of course the modifying term used.”

17. I apologise for adding further to the citation of relevant principles. However, in *toshiba-laptop-battery.co.uk* the Appeal Panel made the following observations concerning *BMW v Deenik* [C-63/97], the trade mark case in the European Court of Justice which dealt with unauthorised use of the BMW mark for a garage providing sales and repairs. The Appeal Panel stated, -

“..... the European Court of Justice considered whether the operator of a garage, which was unauthorised by BMW but specialised in BMW sales and repairs, was entitled to use the trade mark BMW in advertisements to describe the goods and services being offered. The Court decided that it was legitimate to use the mark to identify the source of the goods in respect of which the services were being offered, providing the independent operator did not take unfair advantage of the distinctive character or repute of the mark. Such unfair advantage would arise, in particular, where the mark was used in such a way that falsely created an impression of a commercial connection or affiliation with the trade mark owner (emphasis supplied).

The ECJ also considered the application of the doctrine of “exhaustion of rights” to the sales of second-hand BMW cars, i.e. that where the goods have been placed on sale within the EEA by or with the consent of the trade mark owner, the owner can only object to the use of the mark for the further sale of those goods if there is a legitimate reason to do so. Once again, there would be a legitimate reason for objection if the reseller was using the mark in such a way as falsely to give the impression of a commercial connection or affiliation with the trade mark owner.

The Court concluded:

“If, on the other hand, there is no risk that the public will be led to believe that there is a commercial connection between the reseller and the trade mark proprietor, the mere fact that the reseller derives an advantage from using the trade mark in that advertisements for the sale of goods covered by the mark, which are in other respects honest and fair, lend an aura of quality to his own business does not constitute a legitimate reason [for opposing the use of the mark]”.

The Appeal Panel proceeded to refer to further case law on the concept of ‘unfair advantage’ in the context of trade mark law. As a result of a consideration of the case law of the ECJ and all the other considerations referred to in its decision, the Appeal Panel set out the principles, which were referred to by the Appeal Panel in *wwe-shop.co.uk* and have been set out above.

18. The Domain Name has been used in connection with the business of Jaguar Repairer Ltd and more recently UCL, an independent garage specialising in the repair and servicing (but not the sale) of Jaguar vehicles. The vehicle parts used are genuine parts supplied to UCL by franchisees of Jaguar. No goods or services of competing vehicle manufacturers are sold or have been sold. However, the services offered by that business compete with those provided by the Complainant and its authorised dealers.
19. The precise wording of the Domain Name and its likely effect on consumers are factors of great importance. Would the Domain Name readily be considered to be that of the owner of the Jaguar trade mark or name, or to be ‘official’, i.e. authorised or approved by the owner; or does it falsely imply a commercial connection or affiliation with the Complainant?

20. The Domain Name includes the modifier ‘repairer’ as an adornment to the well-known Jaguar trade mark and name. ‘Jaguar’ is the dominant part of the name. However, it is the modifier that is crucial. Viewed as a whole, including the word ‘repairer’, the Domain Name might be said to suggest a single repairer of Jaguar motor vehicles, a business that repairs Jaguar vehicles. However, if presented with the Domain Name in a Google or like search, a substantial number of consumers are likely to believe (i.e. would readily believe) it to be official and authorised, and to conclude that it referred to a web portal or list of ‘official’ or authorised repair garages or centres set up by Jaguar, the Complainant. In that context, the Domain Name would readily be considered to be a domain name belonging to the Complainant. ‘Initial interest confusion’ is therefore likely. In those circumstances, the Domain Name would falsely imply a commercial connection or affiliation with the Complainant.
21. It is necessary to consider all the relevant circumstances in order to decide whether or not the Respondent has taken unfair advantage of the Complainant’s Rights. The Jaguar name is very well-known as referring to the manufacturer of high-quality motor vehicles sold under that brand. The Complainant uses its domain names, such as jaguar.co.uk, in its commercial operations.
22. That said, there is a lawful market in genuine Jaguar parts and servicing. The website of UCL indicates that it is an independent Jaguar service centre. The website offers repairs, servicing and a variety of other services connected with Jaguar vehicles, such as electronic diagnostics and performance enhancements.
23. The Domain Name has not been used as part of a business that has passed itself off as approved or authorised by Jaguar. The AA, the RAC and the well-known insurers who have dealt with UCL are all aware, as I find, that it is not an official Jaguar business but an independent specialist garage. The same is true of the existing customers of the business to whom the Respondent has referred. However, the services offered by Jaguar Repairer Ltd and UCL have been more than the repair services heralded by the Domain Name. They include

maintenance services, i.e. servicing, and ancillary services such as performance enhancements.

24. Further, in view of the false impression created by the Domain Name, it is likely that a substantial number of consumers would be confused into believing that the Domain Name was in some way authorised or connected to Jaguar. Some of those consumers would then be drawn to the Respondent's website that offers competing repair and maintenance services, believing the Domain Name to refer to a web portal or list of authorised repair and service garages.
25. Therefore, I have concluded that there are circumstances indicating that the Respondent is threatening to use the Domain Name in a way which has confused and is likely to confuse people into believing that the Domain Name is registered to, operated or authorised by, or otherwise connected with the Complainant (see paragraph 3a. ii. of the Policy).
26. In view of all the various considerations set out above, I have reached the conclusion that the Domain Name has taken unfair advantage of the Complainant's Rights and has also been unfairly detrimental to the Complainant's Rights.

Decision

27. Therefore, the Complainant has Rights in a name or mark, which is similar to the Domain Name, and the Domain Name in the hands of the Respondent is an Abusive Registration. The Expert therefore determines that the Domain Name jaguarrepairer.co.uk be transferred to the Complainant.

Signed

STEPHEN BATE

Dated 15.06.17