

DISPUTE RESOLUTION SERVICE

D00020306

**Decision of Independent Expert
(Summary Decision)**

The Miles Consultancy Limited

and

Teletrac Navman

1. The Parties:

Complainant: The Miles Consultancy Limited
TMC House, Spring Farm Business Park, Moss Lane
Minshull Vernon
Cheshire
CW1 4RJ
United Kingdom

Respondent: Teletrac Navman
2700 Patriot Blvd
Suite 200
Glenview
Illinois
60026
United States

2. The Domain Name:

tmc.co.uk

3. Notification of Complaint

I hereby certify that I am satisfied that Nominet has sent the complaint to the Respondent in accordance with section 3 and 6 of the Policy.

Yes No

4. Rights

The Complainant has, to my reasonable satisfaction, shown rights in respect of a name or mark which is identical or similar to the domain name.

Yes No

5. Abusive Registration

The Complainant has, to my reasonable satisfaction, shown that the domain name tmc.co.uk is an abusive registration

Yes No

6. Other Factors

I am satisfied that no other factors apply which would make a summary decision unconscionable in all the circumstances

Yes No

7. Comments (optional)

The Respondent to this Complaint submitted an email by way of Reply, some three working days after the deadline under the DRS had passed for doing so. It appears that the Respondent may not have received the special delivery copy of the Complaint at that time, and it has explained that the mailbox the notice of Complaint was also sent to was infrequently monitored. Given staff holidays, the email had not been picked up when it should have been. Although the Complainant had paid the fee for an uncontested decision, the Expert decided in all the circumstances that it would be appropriate to view the email, and to give the Complainant an opportunity to respond.

As this remains a summary decision, rather than a full decision, the Expert will set out briefly the parties' contentions in order to help explain his decision (although as it happens, in this case the contentions are not particularly complex).

The essence of the Complaint is that the Complainant, The Miles Consultancy Limited, is commonly known as, and has acquired rights in the brand "TMC". It started in business in 2003, and had been trading using the TMC brand for 18

months before the Respondent registered the Domain Name in December 2004. It provides consultancy services to operators of fleets of vehicles based upon analysis of mileage, fuel and fleet data. The Respondent is not known by TMC, and the website at the Domain Name automatically redirects to its own website, which does not use "TMC". Therefore, the Complainant's customers will be enticed away. The Respondent (which offers competing services) has deliberately registered the Domain Name to block the Complainant from doing so.

The Respondent does not dispute the Complainant's rights, nor its explanation of the underlying facts. However, it disputes the allegation of blocking, and maintains that the choice of the Domain Name was because it operates a traffic information system "that is broadcast on the RDS FM data sub-carrier in accordance with the international TMC (which stands for Traffic Message Channel) standard". "Tmc.co.uk, is and has always been a perfectly sensible URL for a UK RDSTMC broadcaster". It says it provides this information service to many vehicles sold in the UK with a navigation set (some 30% of vehicles sold). The domain redirects to its company website. Also, many other companies use the abbreviation TMC.

In response, the Complainant points out that it is very difficult to find any reference to the Traffic Message Channel on the Respondent's website, and a Google search on "TMC" does not produce any reference to Traffic Message Channel until page 3 of the results, and then only in third party material. A more logical choice for the Respondent would appear to be RDSTMC, rather than TMC.

The Expert is unconvinced by the Respondent's explanation of why it registered the Domain Name which contains the Complainant's brand some 18 months after the Complainant began trading in what appears to be a similar field of business. The Respondent does not allege that it was unaware of the Complainant when it registered the name, nor does it deny the allegation by the Complainant that it offers competing services. Although it is perhaps odd that the Complainant has waited so long to make this Complaint, it is nevertheless apparent that there is the potential for customers to try to find it by using an address which takes them to the website of a competitor. The timing of the registration (18 months after the Complainant started business) is also unlikely to be a coincidence. Therefore, on balance, the Expert finds that the registration is abusive.

8. Decision

I grant the Complainant's application for a summary decision. In accordance with section 12 of the Policy, the domain name will therefore be transferred to the Complainant.

Signed: Bob Elliott

Dated: 14th August 2018