

# **DISPUTE RESOLUTION SERVICE**

**D00020490**

## **Decision of Independent Expert**

Lockheed Martin Corporation

and

pprd

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

Complainant: Lockheed Martin Corporation  
6801 Rockledge Drive  
Bethesda  
Maryland  
20817  
United States

Respondent: pprd  
10 Turnpin La  
London  
SE10 9JA  
United Kingdom

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

lockheedmartin-uk.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.

03 August 2018 20:58 Dispute received  
07 August 2018 11:11 Complaint validated  
07 August 2018 11:23 Notification of complaint sent to parties  
27 August 2018 02:30 Response reminder sent  
30 August 2018 11:51 No Response Received  
30 August 2018 11:51 Notification of no response sent to parties  
31 August 2018 11:09 Expert decision payment received

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

The Complainant is the world's largest defence contractor and a global security and aerospace company employing approximately 100,000 people worldwide. It is primarily engaged in the research, design, development, manufacture, integration and sustainment of advanced technology systems, products and services. In 2017 its sales exceeded US \$51 billion. The Complainant's trading origins date back more than a century. It has been trading as Lockheed Martin Corporation since 1995. Lockheed Martin UK is the UK based arm of the Complainant and employs approximately 1,700 people across the country. It is a strategic partner of the UK government and the fifth largest supplier to the UK Ministry of Defence.

The Complainant is the registrant of the lockheedmartin.co.uk domain name. This was registered on 13 July 1998 and the Complainant has used it since that time to resolve to a website to promote its goods and services. The Complainant also advertises its products and services on social media. Examples are provided for Facebook, LinkedIn and YouTube. By way of example the Complainant's YouTube channel has over 120,000 subscribers and over 52 million views.

The Complainant owns registered trademarks for LOCKHEED MARTIN across the world. In the UK it is the proprietor of trademark number 2020704 registered as of 17 May 1995 and number 2254804 registered as of 30 November 2000. These registrations cover a wide variety of goods and services relevant to the Complainant's business.

The Respondent registered the Domain Name on 12 February 2018. The Domain Name has been used to resolve to a pay-per-click website which consists of links to the Complainant. The Complainant has provided confirmatory screenshots dated 28 April 2018, 25 July 2018 and 3 August 2018. On 10 September 2018 searches of the Domain Name by the Expert indicated that no website could be reached and the server IP address could not be found.

On 6 April 2018 the Complainant sent a cease and desist letter to the Respondent requesting transfer of the Domain Name. No reply was received. No Response has been received to this Complaint.

#### **5. Parties' Contentions**

The Complainant asserts Rights in the LOCKHEED MARTIN mark through (i) its longstanding and extensive use of the mark; and (ii) its trade mark registrations. It contends that the Domain Name is confusingly similar to the LOCKHEED MARTIN name.

In summary, the Complainant asserts that the Domain Name is an Abusive Registration under the Policy for the following reasons:

- I. The use of the Domain Name for a pay-per-click website showing links directly related to the Complainant is abusive because it is likely to confuse people into believing that the Domain Name is registered to, authorised by or otherwise connected with the Complainant (paragraph 5.1.2 of the DRS Policy (the Policy));
- II. The Domain Name was registered to disrupt the Complainant's business. Given the fame and distinctiveness of the LOCKHEED MARTIN marks it would be difficult to conceive of any other use for the Domain Name (paragraph 5.1.1.3 of the DRS Policy);
- III. The Domain Name is identical to the LOCKHEED MARTIN marks which have an international reputation and the Respondent has no reasonable justification for having registered the Domain Name, despite being given the opportunity to provide one by filing a Response in this matter (paragraph 5.1.6 of the DRS Policy);
- IV. The Respondent did not respond to the cease and desist letter. There are DRS Decisions which indicate that such a failure will in appropriate circumstances support a finding that registration of a domain name was abusive;
- V. The Respondent would undoubtedly have known of the LOCKHEED MARTIN marks prior to and when it registered the Domain Name in 2018.

The Respondent has made no contentions and has not disputed any of the above submissions.

## **6. Discussions and Findings**

The Complainant must establish on the balance of probabilities, that:

- i) it has Rights in respect of a name or mark which is identical or similar to the Domain Name, (as defined in Paragraph 2 of the Policy) and
- ii) the Domain Name, in the hands of the Respondent, is an Abusive Registration (as defined in Paragraph 2 of the Policy).

### Rights

Rights are defined in Paragraph 1 of the Policy as follows;

*"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."*

The Expert finds that the LOCKHEED MARTIN mark is a well-known mark with an international reputation.

More specifically the Complainant has owned registered trade mark rights in the UK in the LOCKHEED MARTIN mark since 1995. The Rights predate the registration of the Domain Name in 2018. The Complainant has also demonstrated that it owns unregistered Rights in the LOCKHEED MARTIN mark through its extensive, long lasting and successful business presence under the mark in the UK and elsewhere.

The LOCKHEED MARTIN mark in which the Complainant has Rights is for practical purposes identical to the Domain Name. The .co.uk suffix can be disregarded. The insertion of the “-uk” component into the Domain Name is the use of a generic geographic signifier and does not detract from the impact of the LOCKHEED MARTIN name and its association with the Complainant.

The first requirement of the Policy has accordingly been established by the Complainant on the balance of probabilities.

#### Abusive Registration

An Abusive Registration is defined in Paragraph 1 of the Policy as follows:

"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. is being or has been used in a manner which has taken unfair advantage of or has been unfairly detrimental to the Complainant's Rights".

As noted above, the Complainant bases its case on both grounds.

#### *Registration*

The Domain Name was registered on 12 February 2018. At this time both the Complainant's LOCKHEED MARTIN mark and digital presence were well established and it ranked as a world leading business. In the absence of indications to the contrary the Expert finds that, on the balance of probabilities, the Respondent would have been aware of the Complainant when it registered the Domain Name.

The registration of the Domain Name in 2018 was an Abusive Registration for the following reasons:

1. The strength of the LOCKHEED MARTIN mark, and its strong association with the Complainant, gives rise to a *de facto* presumption that the Respondent intended to take advantage of the goodwill in the LOCKHEED MARTIN mark when it registered the Domain Name and by so doing to disrupt the

business of the Complainant. There is no evidence before the Expert to suggest that the Respondent had a legitimate motive for registering the Domain Name.

2. Paragraph 5 of the Policy gives a list of factors which may be evidence that a domain name is an Abusive Registration.

Paragraph 5.1.6 provides as follows:

“The Domain Name is an exact match (within the limitations of the character set permissible in domain names) for the name or mark in which the Complainant has Rights, the Complainant’s mark has a reputation and the Respondent has no reasonable justification for having registered the Domain Name”

These requirements have been established. For the reasons set out above the Domain Name is identical to the Complainant’s LOCKHEED MARTIN mark. The mark is a well-known mark with an international registration and the Respondent has given no justification for registration of the mark, despite having the opportunity to do so in a Response or, indeed, in a reply to the Complainant’s cease and desist letter.

The second requirement of the Policy has accordingly been established by the Complainant on the balance of probabilities. It has established that the registration of the Domain Name was an Abusive Registration.

#### *Use*

The Expert further finds on the balance of probabilities that the use of the Domain Name for a pay-per-click website consisting of links to the Complainant is an Abusive Registration. It carries the likelihood that Internet users will be confused into believing that the Domain Name is registered to, authorised by or otherwise connected with the Complainant. The fact that this use may have stopped at the time of this Decision does not alter this finding.

The Expert therefore finds that the Complainant has established on the balance of probabilities that the use of the Domain Name is an Abusive Registration under Paragraph 1 of the Policy.

## **7. Decision**

The Expert finds that the Complainant 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 Expert orders that the Domain Name be transferred to the Complainant.

**Signed** Sallie Spilsbury

**Dated** 11 September 2018