

DISPUTE RESOLUTION SERVICE

D00022986

Decision of Independent Expert

Bloomberg Three L.P

and

Privacy Department

1. The Parties:

Lead Complainant: Bloomberg Three L.P
731 Lexington Avenue
New York
10022
United States

Complainant: Bloomberg Finance L.P
731 Lexington Avenue
New York
United States

Respondent: Privacy Department
Klapparstigur 7
Reykjavik
101
Iceland

2. The Domain Name(s):

bloombergroup.co.uk (the “Disputed Domain”)

3. Procedural History:

I can 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 a such a nature as to call in to question my independence in the eyes of one or both of the parties.

09 September 2020 11:36 Dispute received

10 September 2020 10:46 Complaint validated

10 September 2020 10:50 Notification of complaint sent to parties

29 September 2020 02:30 Response reminder sent

02 October 2020 11:07 No Response Received

02 October 2020 11:08 Notification of no response sent to parties

14 October 2020 02:30 Summary/full fee reminder sent

16 October 2020 10:00 Expert decision payment received

4. Factual Background

The Complainant describes itself as “a global, market leading financial and business data, software and media business”.

Founded in 1981, the Complainant provides multiple services under the BLOOMBERG name, including the “Bloomberg Terminal platform” which provides real time financial data to over 300,000 users worldwide.

The Complainant operates from the domain name <bloomberg.com> and holds trade mark registrations for BLOOMBERG and BLOOMBERG.COM in the UK and EU. Such trade mark registrations include:

- European trade mark 4718383 registered on January 3, 2008 covering class 9, 16, 36, 38 and 41.

- United Kingdom trade mark 2070017 registered on February 7, 1997 covering class 9, 16, 36, 38, 41 and 42.

The Respondent registered the domain name <bloomberggroup.co.uk> on June 16, 2020. Despite currently resolving to a parked website displaying pay per click advertising, the Complainant has produced evidence showing the Disputed Domain previously resolved to a fully functioning website promoting several financial services under the name “Bloomberg Trading”.

5. Parties’ Contentions

The Complainant:

The Complainant says that it has built up a significant reputation in its BLOOMBERG name and trade mark globally through nearly 40 years of trading. As a result of the Complainant’s trade mark registrations and extensive use, the BLOOMBERG trade mark is recognised by the relevant public as indicating the services of the Complainant and its affiliated companies.

In summary, the Complainant argues that the Disputed Domain is abusive because it:

- Aims to confuse internet users looking for the Complainant’s website
- Aims to prevent the Complainant from acquiring or using it
- Aims to gain an unfair commercial advantage from Complainant’s reputation
- Aims to disrupt the Complainant’s business
- Infringes on the Complainant’s registered UK and EU trade marks.

Above all, the Complainant alleges a likelihood of confusion between the mark and the Disputed Domain for the following reasons:

First, consumers visiting the website at the Disputed Domain have communicated with people purporting to be associated with the Complainant.

Second, the services offered under the Disputed Domain are substantially similar to the services offered by the Complainant. People who visit the site will believe that the businesses are connected, or at the very least, authorised by the Complainant. The use of the Complainant's official business address on the website of the Disputed Domain adds to the confusion.

Third, the Respondent registered the Disputed Domain five months after the Complainant publicly announced that one of its authorised affiliates (Bloomberg Trading Facility BV) had received approval by the Netherlands Authority for the Financial Markets. The timing of the registration suggests that there was an intention to prevent the Complainant from acquiring the Disputed Domain.

The Respondent:

The Respondent failed to submit a Response.

6. Discussions and Findings

To succeed under Nominet's DRS policy the Complainant must first prove that it has Rights in respect of a name or mark that is identical or similar to the domain name. The Complainant has demonstrated extensive use of the mark "BLOOMBERG" through multiple platforms. The Complainant is also the owner of UK and Community registered trade marks for BLOOMBERG, a mark that is widely known within the financial sector.

Furthermore, the Disputed Domain comprises the name "Bloomberg" plus the descriptive term "group". Rather than seeking to detract from the "Bloomberg" name, the addition of the term "group" creates a strong association between the BLOOMBERG mark and the Complainant's group of companies which offer services under the name.

Therefore, the Complainant has established it has Rights in a name similar to the Disputed Domain.

Now that the Complainant has established its bona fide basis for making the Complaint, the question turns to whether the Disputed Domain is an “Abusive Registration”.

Paragraph 1 of the Policy defines “Abusive Registration” as 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.”*

Paragraph 5.1 of the Policy then sets out a non-exhaustive list of factors which may indicate evidence of Abusive Registration including:

“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.”

The “confusion” here refers to confusion of authorship, or as section 3.3 of the Expert’s Overview puts it:

“Will an Internet user seeing the domain name or the site to which it is connected believe or be likely to believe that the domain name is registered to, operated or authorised by, or otherwise connected with the Complainant”?

Confusion is at the heart of Complainant’s case. Not only has the Complainant shown the services previously offered under the Disputed Domain to be substantially similar to those offered by the Complainant, but evidence also suggests the Respondent has taken deliberate steps to mislead consumers looking for Complainant’s services.

For one, the Respondent has used the address of the Complainant's European Headquarters on its website and adopted a domain name which is similar to a well-known mark.

Considering that the financial services sector is strictly regulated to ensure the protection of consumers, it would be inexcusable to allow the Respondent to provide financial services under the Disputed Domain without authorisation.

In the Respondent's failure to submit a Response, the Expert is willing to accept the Complainant's undisputed representations and find that the Disputed Domain is an Abusive Registration.

Respondent has clearly taken unfair advantage of the reputation attached to the BLOOMBERG mark to confuse and enrich itself at the expense of the Complainant and unsuspecting consumers.

7. Decision

Accordingly, the Expert finds that the Complainant has Rights in a name similar to the Disputed Domain, 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 Micah Ogilvie

Dated November 10 2020