

**DISPUTE RESOLUTION SERVICE****D00023040****Decision of Independent Expert**

7-Eleven Inc

and

Stenning Limited

**1. The Parties:**

Lead Complainant: 7-Eleven, Inc  
3200 Hackberry Road  
Irving  
Texas  
75063  
United States

Respondent: Stenning Limited  
Lytchett House  
13 Freeland Park  
Wareham Road  
Poole  
Dorset BH16 6FA  
United Kingdom

**2. The Domain Name(s):**

7eleven.co.uk

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

28 September 2020 18:03 Dispute received

30 September 2020 12:00 Complaint validated

30 September 2020 12:02 Notification of complaint sent to parties  
19 October 2020 02:30 Response reminder sent  
20 October 2020 11:13 Response received  
22 October 2020 15:08 Notification of response sent to parties  
27 October 2020 01:30 Reply reminder sent  
27 October 2020 15:12 Reply received  
27 October 2020 15:12 Reply received  
27 October 2020 15:14 Notification of reply sent to parties  
27 October 2020 15:21 Mediator appointed  
30 October 2020 15:08 Mediator appointed  
30 October 2020 15:08 Mediation started  
09 November 2020 16:03 Mediation failed  
09 November 2020 16:04 Close of mediation documents sent  
12 November 2020 15:18 Expert decision payment received

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

The Complainant is a US legal entity registered in the state of Texas. The Complainant offers convenience store products and services in many countries, either directly or through its licensees.

The Respondent is a company trading in domain names. The Domain Name was registered on 30 June 2008 and was acquired by the Respondent on or about 5 November, 2019. It currently resolves to a holding site inviting expressions of interest in the purchase of the Domain Name.

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

The Expert's summary of the Parties' submissions is set out below.

##### **Complainant**

The Complainant claims registered and unregistered rights in the 7 ELEVEN mark based upon its registered trademarks incorporating this mark and the substantial goodwill in the mark, generated over many years in the course of trade in numerous countries across the globe. The Complainant submits that the mark has become uniquely identified with the Complainant.

The Complainant points out that that the Domain Name was registered on the 30 June 2008 and that its rights in the 7 ELEVEN mark predate the registration. The Complainant states that the Domain Name is identical to its mark, comprising the 7 ELEVEN mark in its entirety without modification or additional elements. It would therefore clearly be associated with the its brand and business.

The Complainant submits that the Domain Name is an abusive registration in line with the provisions of paragraphs 5.1.1, 5.1.2 and 5.1.3 of the DRS Policy.

The Complainant submits that the Respondent could not be unaware of the Complainant's existence or the likelihood that the Domain Name would be universally recognised as referring to the Complainant's brand. Accordingly, the Respondent's purpose in acquiring the Domain Name must have been to sell it to the

Complainant or to one of its competitors, for more than the cost of its acquisition, further to paragraph 5.1.1.1 of the Policy.

The Complainant argues that the Domain Name website targets UK consumers because it is using the.co.uk ccTLD and that the Respondent could have no reason to register the Domain Name other than to benefit in some way from the Complainant's mark or to interrupt or block its business in the UK. It is also inevitable that consumers coming across the Domain Name will assume it has a formal connection with the Complainant. As such, this activity falls foul of 5.1.1.2 of the Policy.

The Complainant views the Respondent's not having made any commercial use of the Domain Name for 12 years as proof that the registration was made in bad faith, falling foul of paragraph 5.1.1.3 of the Policy.

The Complainant relies upon paragraph 5.1.2 of the Policy to argue that it is impossible to imagine how use of the Domain Name would not cause consumer confusion. The average consumer familiar with the 7 ELEVEN brand would assume the Domain Name was related to the Complainant. As such, it is a reasonable assumption that the Respondent intentionally registered the Domain Name to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant as to the ownership or management of the website.

Paragraph 5.1.3 is cited by the Complainant as the basis for its claim that the Respondent is engaged in a pattern of registrations where the Respondent is the registrant of domain names which correspond to well-known names or trademarks with which the Respondent has no apparent reason to be connected or involved.

The Complainant reports that it has independently verified that the Respondent has provided them with false contact details contrary to paragraph 5.1.4 of the Policy.

### **Respondent**

The Respondent accepts that the Complainant has rights in the mark which forms the substantive portion of the Domain Name. No admission is made in respect of the Complainant's UK business.

The Respondent states that it is in the business of buying and selling domain names, with an extensive portfolio of names for sale or lease. The Respondent refers to paragraph 8.4 of the DRS Policy to observe that '[t]rading in domain names for profit, and holding a large portfolio of domain names, are of themselves lawful activities.'

The Respondent reports that in November 2019 it bought the Domain Name along with a number of others, with the aim of selling it to anyone who might be interested in it. The Respondent felt that the Domain Name was potentially attractive because it reflected a relatively common formulation, combining numbers and words or letters, used by various traders in the UK and elsewhere and that it fitted well with other domain names owned by the Respondent that used numbers in word and/or numeral form, such as <one97.co.uk>, <number9.co.uk> and <mseven.co.uk>.

The Respondent argues that when it bought the Domain Name, the Complainant was not foremost in its mind. The Respondent felt that others with a closer connection to the UK were using this name and variations on it. The Respondent suggests that it would probably have said at the time that it was dimly aware of a US retailer of that name but would not have expected it to have any interest in acquiring the Domain Name, compared to many other UK users. The Respondent submits evidence to support its contention that it would have been justified in that view because the Complainant had abandoned the UK over 20 years ago. The Complainant apparently considered resuming in 2014 but did not do so and, so far as the Respondent is aware, the Complainant is still not trading in the UK.

The Respondent argues that the combination of the numbers seven and eleven in different numeral / word forms (but often '7 Eleven') is a common business name formulation for many entities in the UK and elsewhere, and far from uniquely associated with the Complainant. The Respondent submits evidence of the use of the expression 7 ELEVEN in businesses and trading activities in the UK and elsewhere in the world. The examples quoted include:

- Seven Eleven, a marketing agency ([seven-eleven.co.uk](http://seven-eleven.co.uk))
- Seven Eleven, a beauty salon, ([seven-eleven.beauty.co.uk](http://seven-eleven.beauty.co.uk))
- Seven Eleven, a Chinese takeaway in West Yorkshire.
- Seven Eleven Trading Germany, offering signs and collectibles, ([7eleven.de](http://7eleven.de)), whose logo consists of the company's trading name inside a giant '7'.
- 'FITSEVELEVEN', a chain of gyms in Germany, ([fitseveneleven.de](http://fitseveneleven.de)), whose logo comprises the stylised numbers '7.11'.
- Seven Eleven, a Dutch music group, ([sevenelevenmusic.com](http://sevenelevenmusic.com))
- 7 Eleven Gallery, a New York art gallery, ([7elevengallery.com](http://7elevengallery.com) and a logo comprising a stylised word 'seven' and number 11)
- 7 Eleven Cabs in Pakistan, with a website at [7elevencabs.com](http://7elevencabs.com).
- [7elevenfashionhouse](http://7elevenfashionhouse.com) in Bangladesh, ([7elevenfashionhouse.com](http://7elevenfashionhouse.com))
- Seven Eleven Hotel, in Sri Lanka.
- Seven Eleven Most City Hotel, in Ukraine.

The Respondent notes that the Complainant has produced no evidence of bad faith. For example, there is no proof that the Respondent offered to sell the Domain Name to the Complainant or used it in any way relevant to the Complainant's business.

The Respondent contends that the Complaint seeks to show that the Domain Name was registered with the Complainant specifically in mind. The Respondent denies

that this is so. It is a UK based entity and the Domain Name's <.co.uk> suffix implicitly targets UK visitors as the Complainant admits. The Complainant is a US-based company with no trading presence in the UK. The Respondent's view is that the Domain Name is one variant of a trade name formula (other examples of which are quoted above) which is widely used across many sectors in the UK and around the world. The Complainant's case rests entirely, says the Respondent, on the extent of the Complainant's reputation. But the voluminous evidence supplied by the Complainant about its trading activities contains no information about the UK because there has been no such activity for more than 20 years. The Respondent maintains that the Complainant should have been open on this point instead of attempting to conceal it, behaviour which demonstrates that the Complainant considered that its case was a weak one.

The Respondent submits that the domain names owned by the Complainant and offered in evidence of its online presence are all apparently registered in 2020, postdating the Respondent's purchase of the Domain Name. This list of domain names says nothing of relevance about the 'wide-scale' online use of the Complainant's marks.

The Respondent says that the Complainant is wrong to claim that offering the Domain Name for sale cannot constitute a bona fide offering of goods and services. Paragraph 8.4 of the Policy states that trading in domain names for profit is of itself a lawful activity. The Respondent repeats that it did not register the Domain Name specifically for sale to the Complainant, nor indeed to a competitor of the Complainant, as the Complainant speculates.

The Respondent asserts that it has made legitimate commercial use of the disputed domain name in the 12-month period since its acquisition, offering it for sale to the world at large. Even if this was not considered 'use' or 'commercial use', paragraph 5.2 of the Policy makes clear that failure to use a domain name for a website is not of itself evidence of abusive registration.

### **Reverse Domain Name Hijacking (RDNH)**

The Respondent invites the Expert to make a finding of RDNH against the Complainant on the grounds that the Complainant set out to mislead the Expert concerning its trading presence in the UK. The Respondent refers to the following passage in the Complaint:

'Since 1946 to date, the Complainant has operated in over 17 countries, and has approximately 70,000 stores worldwide, including in Denmark, Norway, Sweden, USA, Japan and more. The Complainant also had a presence in the United Kingdom for over 12 years.'

The Respondent contends that this can only be seen as an attempt to convince the Expert that the Complainant had been trading in the UK for the past 12 years when in fact the alleged 12-year period of trade ended over 20 years ago. The Complainant could easily have explained this if it wanted to. The Complaint goes on to say:

'In view of the nature of the Complainant's success, and growing business, a more significant presence in the UK in the future cannot be ruled out.'

The Respondent submits that this was designed to suggest that the Complainant currently had a UK business that it may expand into an even 'more significant' presence in future. However, when read in light of the concealed fact that the Complainant has in fact had zero presence in the UK for over 20 years, the reference to future presence now looks like a deliberately ambiguous choice of words intended to give the Complainant some wriggle room in case its subterfuge was uncovered.

The Respondent contends that this is a clear case of reverse domain name hijacking (RDNH). The Complainant, having based its case for abusive registration solely on the extent of its reputation, has sought to deceive the Expert on the key aspect of that reputation, namely within the UK. Had the Respondent not stumbled on the truth, an injustice might have been done.

The Respondent observes that complainants have been found guilty of RDNH in a number of DRS cases where they attempted to mislead the expert including:

DRS 21075 (splitpay.co.uk), complainant deliberately made a false claim that it had carried out searches showing that the respondent had engaged in a pattern of abusive registrations;

DRS 18610 (hrworks.co.uk), complainant sought to rely on a trade mark that had been cancelled and failed to disclose a relevant domain purchase attempt; and

DRS 5899 (psg.co.uk), complainant sought to rely on demonstrably falsified evidence.

### **Complainant's Reply to the Response**

The Complainant exercised its right to reply to the above Response. Much of the reply was re-statement of arguments put forward in the Complaint. At certain points the Complainant sought to advance additional material which should, if relevant, have been included in the original Complaint. I decline to take this material into account. Where the Complainant has directly addressed matters raised in the Response to the Complaint, I have given appropriate consideration to these further submissions and summarise them below.

The Complainant addresses the Respondent's statement that he is in the business of buying and selling domain names. The Respondent provides a non-exhaustive list of the domain names that it has registered, with the intention of selling these to third parties. The Complainant does not dispute that this activity is legitimate, but points to the difference between these domains and the Domain Name in this case, which is that these domains do not contain a well-known trade mark belonging to a third party. This, says the Complainant, is a key factor when assessing whether the registration of a domain name is abusive. The Complainant further argues that the Respondent has not provided a complete list of the domains it owns and it may well own other domains which contain a well-known trade mark belonging to a third party, which would be abusive registrations.

The Complainant addresses the Respondent's statement that it was 'dimly' aware of the Complainant's business. The Complainant argues that, given the reputation in the brand globally, it is difficult to believe that the Respondent was 'dimly' aware of the

Complainant. Although the Respondent may have not known exact details about the Complainant, it must have known about the notoriety and worldwide presence of the brand because of the longstanding use of the mark. The Complainant points out that the Respondent admits that he was aware of the Complainant and thus knew that the Complainant would be the correct holder of the Domain Name.

The Complainant addresses the Respondent's claims that the numbers 'seven' and 'eleven' denotes the opening hours of a business, and is a common business name formulation for many businesses around the world. It is disputed that SEVEN ELEVEN denotes the opening hours of businesses, and thus descriptively or commonly used. The Complainant contends that the Respondent has not provided evidence to support the assertion that these numbers are used descriptively, or that these are common opening hours for businesses. The Complainant argues that consumers are accustomed to associating 7 ELEVEN with the Complainant's brand name will come to mind. The mark cannot be found to be descriptive.

The Complainant notes that the Respondent lists third party use of SEVEN ELEVEN/ 7 ELEVEN and uses these examples to show that they are commonly used all over the world. The Complainant submits that these examples contradict the Respondent's assertion that 7 ELEVEN is used to denote business opening hours as these third parties are not using it in this manner.

The Complainant disagrees with the Respondent's submissions that as the Complainant has been absent from the UK, that consumers in the UK are unaware of the Complainant's reputation and that use of the Domain Name would not lead to confusion. A lack of physical presence in the UK does not, the Complainant argues, mean that UK consumers are unaware of the brand. Whilst the Complainant is not operating stores in the UK, it is still well known in there as a result of its use over the last 70 years and because of the popularity of the 7 ELEVEN stores in the 1990s. Use of the Domain Name will cause confusion to consumers or the Respondent will sell it to a third party who will use it in a way which will cause confusion.

The Complainant submits that it is not guilty of reverse domain name hijacking. The Respondent submits that the Complainant intended to mislead the Expert in respect of its business presence in the UK. The Complainant states at paragraph 5 in the complaint that it had a presence in the UK for 12 years. This shows that its presence in the UK was in the past. The Complainant maintains that no parallels can be drawn between 7 Eleven, Inc and the complainants in the cases cited by the Respondent for the reasons set out below:

**Splitpay.co.uk** the complainant did not have registered rights at the time of filing the complaint and it knew about the domain name before filing to register the trade mark. The Complainant had registered rights in 7 ELEVEN and SEVEN ELEVEN which pre-date the date of filing the complaint.

**hrworks.co.uk** the complainant did not submit evidence of its alleged reputation in the trade mark and did not mention that its German right relied on was cancelled. From the evidence and arguments submitted, the Complainant has a reputation in 7 ELEVEN.

**psg.co.uk** the complainant exaggerated the pattern of bad behaviour. The Complainant did not exaggerate its claims in this case. The domain contains the identical 7 ELEVEN mark and is listed for sale. Rule 8.4 does not apply because the Respondent brought the Domain Name, which he knew belonged to the Complainant, and had the intention to sell it to a third party.

### **Respondent's Non-Standard Submission**

Further to receipt of the Complainant's Reply to the Response, the Respondent sought leave to make a further, non-standard submission under paragraph 17 of version 4 of the DRS Policy. As the appointed Expert for this matter, I exercised my discretion to allow the submission, the content of which I summarise below.

The Respondent submits that the Complainant's Reply to the Response should be disregarded to the extent that it introduces additional material which could or should have been included in the original complaint. The Respondent argues that the Expert should, in accordance with Paragraph 9.2 of the DRS Policy, disallow such additional material. The need to do so is pressing, says the Respondent, because the original Complaint contained misleading or ambiguous language relating to the Complainant's UK trading presence and the familiarity of UK consumers with the Complainant's 7 ELEVEN trademark. The Complainant's Reply seeks, unsuccessfully in the Respondent's view, to substantiate claims made in the Complaint and distance itself from the misleading impression made by its earlier description of its UK operations.

## **6. Discussions and Findings**

DRS Policy

Paragraph 2.1 of the DRS Policy provides as follows:

2.1 A Respondent must submit to proceedings under the DRS if a Complainant asserts to us, according to the Policy, that:

2.1.1 The Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Name; and

2.1.2 The Domain Name, in the hands of the Respondent, is an Abusive Registration

Rights and Abusive Registration are defined in Paragraph 1 of the DRS 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;

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;

The expert must answer two questions in reaching a decision. First, does the Complainant have rights sufficient to bring the complaint and second, is the Domain Name an abusive registration as defined in the Policy.

### **Complainant's Rights**

The Complainant has submitted evidence of registered rights in the form of trademark registrations for the 7 ELEVEN mark and unregistered rights at common law derived from goodwill acquired in the mark in the course of trade. The protected mark is identical to the substantive portion of the Domain Name. This evidence is not challenged by the Respondent and I have no difficulty in finding that the Complainant has the necessary rights in bringing this Complaint.

### **Abusive Registration**

A non-exhaustive list of factors which may be evidence that the Domain Name is an Abusive Registration is set out in Paragraph 5 of the DRS Policy. The sections of Paragraph 5 relied upon by the Complainant are as follows:

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

5.1.1.1 for the purposes 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;

5.1.1.2 as a blocking registration against a name or mark in which the Complainant has Rights; or

5.1.1.3 for the purpose of unfairly disrupting the business of the Complainant;

5.1.2 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;

5.1.3 The Complainant can demonstrate that the Respondent is engaged in a pattern of registrations where the Respondent is the registrant of domain names (under .UK or otherwise) which correspond to well known names or trademarks in which the Respondent has no apparent rights, and the Domain Name is part of that pattern;

5.1.4 It is independently verified that the Respondent has given false contact details to [Nominet];

In the course of a lengthy submission the Complainant alleges that the Respondent's behaviour in registering the Domain Name falls within the contemplation of practically every one of the conditions for abusive registration set out above. Discussion focusses however upon paragraphs 5.1.1, 5.1.2 and 5.1.3, with a passing reference to paragraph 5.1.4.

The Complaint relies upon a series of propositions, deriving from a belief that the mark 7 ELEVEN is uniquely identified with the Complainant. After providing evidence of its rights in the registered trademark 7 ELEVEN, the Complainant describes at length the history and wide geographical reach of its business. A seventy-year trading history, stores trading under the 7 ELEVEN name located in very many countries around the World and substantial marketing and promotional activity are described to support five propositions:

- that, given the extent of this name recognition, the Respondent could not plausibly claim not to have the Complainant in mind when registering the Domain Name and that, having the Complainant in mind, the Respondent's motive in registering the Domain Name was to profit from the sale of the Domain Name to the Complainant or to one of its competitors;
- that the Domain Name in the hands of the Respondent blocks the Complainant from acquiring it.
- that the Domain Name website is targeting UK consumers because it is using the.co.uk ccTLD and that the Respondent could have no reason to register the Domain Name other than to benefit the Complainant's mark or to unfairly disrupts the Complainant's UK business.
- that consumers coming across the Domain Name will inevitably assume that has a formal connection with the Complainant. the Domain Name in the hands of the Respondent is thus inherently confusing to consumers, who will only associate it with the Complainant.

The Respondent challenges the contention that the 7 ELEVEN mark is uniquely identified with the Complainant and argues that the propositions which follow from it are thus invalid. The Respondent argues that:

- The Respondent's business is the purchase and sale of domain names, an activity which in itself is completely lawful.
- The Domain Name is one of some thousands of names offered for sale on the Respondent's website. This site is addressed to the public at large;
- The Respondent is aware of the Complainant's existence but considers it to be one of many entities which might have an interest in acquiring the website. The trading name is in wide use in many contexts not associated with the Complainant.

- The Complainant cannot argue that consumer confusion is inevitable. The Domain Name site contains nothing to suggest it is competing with or operating in association with the Complainant.
- The Domain Name's .co.uk tld indicates an orientation towards the UK market. The Complainant has been absent from this market for 20 years. The Complainant deliberately sought to misrepresent its UK trading presence by omitting reference to this fact. It is not plausible to suggest that the Complainant's UK business is unfairly disrupted by the Domain Name in the Respondent's hands.
- The Complainant, in seeking to mislead the Expert as to its trading history in the UK is guilty of Reverse Domain Name Hijacking. The Complainant's Reply to the Response was an attempt to re-state its submission once the Respondent had brought this earlier inaccuracy to light.

It is common ground that the Complainant has rights in the mark 7 ELEVEN as required by the DRS Policy. Thereafter, the Parties submissions, a complaint, a response, a reply to the response and a non-standard further submission, trade accusations and denials covering all of the above matters. I am required to determine, on the balance of probabilities, whether the Respondent's actions in registering the Domain Name and offering it for sale add up to an abusive registration or not.

I accept that the Complainant is predominantly identified with the 7 ELEVEN mark. The Respondent's claim that it was only 'dimly aware' of the Complainant seems implausible in light of the Complainant's long trading history and its extensive worldwide presence. The Respondent provides examples of similar marks, using different combinations of numbers and letters in a variety of commercial contexts. However, only three of the examples provided use the combination of the figure 7 and the word 'eleven' as they appear in the Domain Name and all three add a further element to their domain names to distinguish them from the Complainant and its line of business. As such, these do not reduce the likelihood that consumers would associate the mark, and thus the Domain Name, with the Complainant and that the Respondent either knew this or, even if only 'dimly aware' of the Complainant, should have checked on its rights in the mark before buying the Domain Name.

Accepting that the Respondent must have known of the Complainant, it is perhaps open to debate what this reputation amounts to in the UK. The Respondent makes the awareness of the Complainant is likely to be low as it only had a trading presence there for twelve years, before departing that market twenty years ago. The Complainant offers evidence in reply to show that UK consumer interest in its business exists at the present time. In my assessment, this evidence tends to show that the Complainant and its protected marks would, to a reasonable if not necessarily overwhelming extent, be recognised in the UK market.

The Complainant's contention that "the Respondent's purpose in acquiring the Domain Name must have been to sell it to the Complainant or to one of its competitors" is also challenged by the Respondent. The Domain Name directs to a website, the sole function of which is to offer it for sale to anyone who might have an

interest in acquiring it. No offer has been made to the Complainant directly or to any of its competitors. However, having found that it is likely that the Respondent had knowledge, or constructive knowledge, of the Complainant, it is hard to avoid the conclusion that the motivation for purchasing the Domain Name and the biggest determining factor in establishing its market value would be the Complainant's interest in acquiring it. Other parties might have an interest in the Domain Name, but the examples quoted by the Respondent and referred to above do little to undermine the argument that the Complainant is by some way the most likely interested party.

The Complainant argues that the Domain Name in the Respondent's hands will be a source of consumer confusion, although no evidence is offered of actual confusion and no explanation is given of how confusion might arise. The Complainant argues that the Domain Name website targets UK consumers because it uses the.co.uk ccTLD and that the Respondent could only wish to register it to benefit from the Complainant's mark or to interrupt or block the Complainant's UK business. The Respondent does not address these allegations fully because it bases its case on being only 'dimly aware' of the Complainant and on the potentially wide market interest in the Domain Name. These arguments fail to persuade in my view, as the Complainant is, objectively, by far the best known and most obvious potential purchaser.

On the basis of the forgoing, I conclude that the Domain Name is an Abusive Registration in the Respondent's hands. Other submissions were made by the Parties which I do not consider material to this decision; for completeness I address them briefly below.

The Complainant views the Respondent's not having made any commercial use of the Domain Name for 12 years as proof that the registration was made in bad faith. I note that the Respondent says he acquired the Domain Name in November 2019 (i.e. 12 months ago rather than 12 years), a difference upon which the Complainant does not comment in its Reply to the Response. In any event there is no requirement for a registrant to put a domain name to use within a set time. Depending upon the facts of a dispute, delay might be invoked as evidence of bad faith on the part of one or other of the parties, but I see no such circumstances arising in the present Complaint.

Paragraph 5.1.3 of the Policy is cited by the Complainant to allege that the Respondent is engaged in a pattern of registrations which correspond to well-known names or trademarks with which it has no apparent reason to be connected or involved. The Respondent lists domain names in its possession which use combinations of numbers and letters or words. The Complainant insinuates that beyond these innocuous examples, the Respondent may own others which infringe third party rights. No evidence is offered to support this, but it may have helped the Respondent to react to it by providing more information about his batch-purchase of domain names, which included the Domain Name in dispute. As a trader in domain names, what checks does he undertake, for example, to ensure that batch-purchased domain names do not include any which might infringe third party rights? What, more fully described, did the Respondent know of the Complainant, its business and its registered trademark rights? Neither party argues this issue effectively and it has no bearing on my decision.

Similarly, the Complainant reports that they have independently verified that the Respondent has provided them with false contact details contrary to paragraph 5.1.4 of the Policy. The evidence submitted by the Complainant contain no further reference to this allegation and I make no further comment upon it.

The Respondent accuses the Complainant of reverse domain name hijacking in that it attempts to mislead the Expert by misrepresenting the importance of its UK business interests. It is the case that the Complainant had traded in the UK for 12 years, but that it had not done so for 20 years. The Complainant says that it used the words “*had* traded” [emphasis added] to indicate that it was not describing a current state of affairs. I accept this submission. Concerning the second assertion, that UK trading had ceased 20 years ago, the Complainant’s position is that, be that as it may, it does not rule out a return to UK trading in the future and it must therefore assert its rights in that market. There is nothing exceptionable in that submission. While there may have been an attempt to over-state the importance to the Complainant of the UK market, I am not prepared to characterise this as a cynical attempt to deceive. Accordingly, I find that this was not a case of reverse domain name hijacking.

## **7. Decision**

I find that the Domain Name is an Abusive Registration in the Respondent’s hands and direct that it be transferred to the Complainant.

The Complainant is not, in my view, guilty of Reverse Domain Name Hijacking.

**Signed: Peter Davies**

**Dated 7 December, 2020**