

DISPUTE RESOLUTION SERVICE

DRS 06783

Decision of Independent Expert

HARRODS LIMITED

and

AHMED FAYED

1. The Parties:

Complainant: Harrods Limited
Address: 87-135 Brompton Road
Knightsbridge
London
Postcode SW1X 7XL
Country: United Kingdom

Respondent: Ahmed Fayed
Address: P.O.Box 157
Apto A149
Sabinillas
Manilva
Postcode: 29692
Country: Spain

2. The Domain Name(s):

fayed.co.uk

3. Procedural History:

The Complaint was received in draft by Nominet electronically on 27 January, 2009 and completed on 29 January, 2009. Nominet checked the Complaint and validation was confirmed on 2 February, 2009. Nominet duly informed the Respondent, by both letter and by e-mail on 2 February, 2009, noting that the

Dispute Resolution Service had been invoked and that the Respondent had 15 days (until 23 February, 2009) to submit a Response. A brief email Response was received on 2 February, 2009 and notified to the Complainant on the same day, setting a deadline of 9 February, 2009 for the Complainant to make any Reply. On 3 February, 2009, the Complainant duly submitted a Reply which Nominet forwarded to the Respondent also on that day. The Parties were invited to enter Mediation in the period 6-20 February, 2009, but did not resolve the Dispute in Mediation. On 16 February, 2009 Nominet confirmed that Mediation had not been possible and invited the Complainant to pay the fee to obtain an Expert Decision pursuant to paragraph 7 of the Nominet Dispute Resolution Service Policy ("the Policy") and Paragraph 21 of the Nominet Dispute Resolution Service Procedure ("the Procedure"). The fee was duly received by Nominet on 20 February, 2009.

Nominet then invited the undersigned, Keith Gymer ("the Expert"), to provide a decision on this case and, following confirmation to Nominet that the Expert knew of no reason why he could not properly accept the invitation to act in this case and of no matters which ought to be drawn to the attention of the parties, which might appear to call into question his independence and/or impartiality, Nominet duly appointed the undersigned as Expert with effect from 4 March, 2009.

Having read through the Complaint and the accompanying Exhibits and the Response and Reply, the Expert asked Nominet to issue a request under Paragraph 13.a of the Procedure inviting the Parties to submit further statements and documents. Nominet issued the request as follows on 6 March, 2009:

Respondent

The expert has requested that you provide documentary evidence of your identity, to arrive no later than 11 March.

Complainant

The expert has requested proof of additional evidence that you may wish to submit to support your assertion that Mr Ahmed is not a true identity. Again, this information is to be received no later than 11 March.

The Complainant replied the same day indicating that it had no additional material to submit.

No reply whatever was received from the Respondent.

4. Factual Background

This Complaint is submitted by solicitors for Harrods Limited, for and on behalf of Mr Mohamed Al Fayed (the "Complainant").

Mr Al Fayed is very well known as the Egyptian owner of the famous Harrods department store in Knightsbridge. His son, Dodi Fayed, died with Princess Diana in the car accident in Paris in 1997, and Mr Al Fayed has gained a certain notoriety and provoked strongly polarised opinions, for and against, as a consequence of

various assertions he has made subsequently. His views regularly attract widespread newspaper comment in the UK, for example.

Mr Al Fayed has a website at www.alfayed.com also accessible via www.alfayed.co.uk.

Harrods owns Community Trade Mark registrations for the names and marks MOHAMED AL FAYED (CTM 1540970 dating from 2001) and DODI FAYED (CTM 648444 dating from 1999).

According to the minimal information available from the current Nominet WHOIS record, the Domain Name, fayed.co.uk, appears to have first been registered as of 5 May 2004. At the date of filing of the Complaint, the Domain Name had very recently been transferred into the name of "Ahmed Fayed". Whether this refers to the true name of a real individual, or is simply an alias for the previous registrants is a matter of dispute. When the Complainant first sought the transfer of the Domain Name, prior to the actual filing of the present Complaint, its lawyers wrote (on 23 January, 2009) to the then recorded registrants, being:

Mr C Holland & Mr R Davies
Trading as DropCatcher
20 Welbeck Road
Worsley
Manchester
M28 2SL

5. Parties' Contentions

Complainant:

The Complainant has asserted that:

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

In support of its case, the Complainant says:

For the reasons set out below, in referring to the "Respondent" in this matter, we refer to Mr Chris Holland and Mr Ronnie Davies t/a Dropcatcher, and their invented alter ego 'Mr Ahmed Fayed'.

Complainant's Rights

Mr Mohamed Al Fayed is the Chairman of Harrods, and his family name is synonymous with the Complainant. The form of address 'Al Fayed' is a more formal style of the Fayed family name, and both have been used interchangeably to refer to Mr Mohamed Al Fayed, and to his son, the late Dodi Fayed.

The Complainant's Chairman operates a website from the domain name <alfayed.com> registered on 17 June 1998. The Complainant also owns the domain name <alfayed.co.uk> registered on 17 May 1999, which links to <alfayed.com> and to which the domain name is also confusingly similar.

On the website hosted at <alfayed.com>, Mr Al Fayed refers in detail to his Egyptian heritage and family story, including coverage of the untimely death of his son Dodi on 31 August 1997, together with Diana, Princess of Wales.

Not only is the Complainant's Chairman known by an identical family name to that used in the domain name (a simple search in Google for 'Fayed' returns links relating almost exclusively to Mr Mohamed Al Fayed or Mr Dodi Fayed), but the Complainant has registered rights in respect of a name or mark which is identical or similar to the domain name as it owns the following trade marks:

- Community Trade Mark No. 648444 registered on 12 January 1999 for the word mark DODI FAYED in Classes 3, 9, 16, 18, 25 and 28; and

- Community Trade Mark No. 1540970 registered on 6 April 2001 for the word mark MOHAMED AL FAYED in classes 3, 9, 16, 18, 25 and 28.

The domain name is therefore identical to the Complainant's Chairman's personal name, and similar to the Complainant's registered domain name <alfayed.com> and registered trade marks (Paragraph 2(a)(i) of the Policy).

Abusive Registration

On 23 January 2009 the Complainant's solicitors sent a letter before action to Chris Holland and Ronnie Davies t/a Dropcatcher - the registrants of <fayed.co.uk> (copy letter enclosed with the supporting paper file). At the time of the letter, the domain name resolved to a sponsored links page for various 'Harrods', 'Mohamed Al Fayed', 'Dodi Fayed' and 'Diana' related sites.

Specific examples cited in the 23 January 2009 letter included '20 hotels near Harrods', 'Al Fayed - Diana Pregnant'; 'Princess Diana Inquest'; and 'Mohamed Al Fayed'.

The Complainant's solicitors asked for the domain name to be transferred following an agreement to meet the registrant's out of pocket costs of having registered the domain name.

On 27 January 2009, the Complainant's solicitors received an email from Chris Holland from the address 'chris@uk3.com', a copy of which is attached to the paper file for this Complaint for information. The email stated:

"Dear Katherine,

Thank you for your email and letter regarding the domain name fayed.co.uk. Although we would have loved to have been able to simply donate this domain to your truly dreadful and odious client I regret to inform you that we have recently sold this domain.

Best regards,

Chris Holland"

Mr Holland is listed as a Member of Nominet - his listing for 'Mr C Holland trading at CHC' links to UK3.com - the address from which Mr Holland's email originated. UK3.com Limited t/a DropCatcher is also a Member of Nominet in its own right.

A WhoIs search showed an apparent transfer earlier that day to 'Ahmed Fayed' at a PO Box postal address in Manilva, Spain, without telephone, fax or email contact details. Post-transfer, the website hosted at the domain name was updated to an active website of sponsored links under the headings 'Egyptian Child Molesters'; 'Egyptian Fraudsters'; and 'Egyptian Conspiracy Theorists'.

It is inconceivably coincidental that some 4 days after the letter before action was sent to the original registrants, an own-name buyer would have acquired the domain name - a domain name which was originally registered on 5 May 2004 - but moreover that a registrant would seek to host a website under his own name with content as distasteful as 'Egyptian Child Molesters'. The Complainant's solicitors therefore wrote to Nominet requesting additional contact details for the 'new' registrant.

Under the updated WhoIs details for the domain name, the registrar was listed as Mr Malcolm Small t/a Newwave Security. The Complainant brought a successful Nominet complaint against Newwave Security under DRS Number 04093 in respect of <harrodevillage.co.uk>. In light of the content currently hosted at the website, and the likely partiality of the Registrar, the Complainant's solicitors have been reluctant to seek the assistance of the Registrar in removing the offensive material before commencing Nominet DRP in this case.

Pending the provision of information from Nominet, some brief internet research into Mr Holland confirmed that he currently lists himself on the networking website 'LinkedIn' as 'CEO of UK3.com' and as being based in 'Marbella Area; Spain' (website capture enclosed with the supporting paper file).

Manilva - the town address given for the new registrant 'Ahmed Fayed' - is located just west of Marbella.

On 29 January 2009, Nominet's Dispute Resolution team, in accordance with clause 11.3 of the Nominet Terms and Conditions, were able to release details of an email address registered in connection with the 'new' registrant: 'ahmed.fayed@uk3.com'.

The facts above indicate that this is an abusive registration for the following reasons:

The Nominet Policy defines an 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 has taken unfair advantage of or has been unfairly detrimental to the Complainant's Rights.

As to the first head, the Complainant submits that the Respondent registered and used the domain name to host sponsored links, which were inextricably connected to the Complainant's business, its Chairman, or the Chairman's family. This website hosted sponsored links, which generated revenue for the Registrants. The Complainant's famous name had been selected as a means of attracting internet traffic from users searching for the Complainant's Chairman's own website, or seeking information on the Complainant's prestigious department store with which the Chairman's name is synonymous. Such use clearly both took unfair advantage of and was unfairly detrimental to the Complainant.

As to the second head, for the reasons set out above, including but not limited to the false claim the domain name had been sold; the creation of a pseudonym for a fictitious third party own-name registrant; an unpleasant email referring to the Complainant's chairman as "truly dreadful and odious"; the hosting of malicious and potentially defamatory content at the domain name; the Complainant submits that an abusive registration on the basis of the manner of use of the domain name being unfairly detrimental to the Complainant is made out.

Section 3 of the Policy provides a non-exhaustive list of factors which may be evidence that the Domain Name is an "Abusive Registration". The Complainant submits the following heads of section 3 are all potentially applicable:

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

- A. 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.

If the Respondent is to be believed, then after having been alerted to the Complainant's rights by letter of 23 January 2009 sent by post and email, the Respondent arranged for the sale of the domain name to a third party - presumably for remuneration in excess of the costs of acquisition or the Respondent would not have sold the domain name.

- C. for the purpose of unfairly disrupting the business of the Complainant.

Prior to the 'sale' of the domain name, links were hosted at the domain name which were indisputably based on tags selected by the Respondent which targeted the Complainant's business.

- iii. 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 trade marks in which the Respondent has no apparent rights, and the Domain Name is part of that pattern.

On 18 February 2008, Dale Stirling of UK3 Plc approached the Complainant with an offer to sell the domain name <harrodsaviation.co.uk>. The Complainant has a prestigious and well-established business operating under the name 'Harrods Aviation' and wrote to UK3 Plc explaining its extensive rights in the name. Following initial correspondence, the domain name was transferred to a third party - Shadowcat Systems Limited. Mr Holland subsequently took over correspondence, apparently on behalf of Shadowcat Systems Limited - and rejected the arguments raised. He offered the domain name for sale to the Complainant, following which on 10 March 2008, the Complainant began Nominet proceedings under reference number 05518. On 27 March 2008, Mr Holland wrote to confirm he/ his clients wished to voluntarily transfer <harrodsaviation.co.uk> and the complaint was therefore withdrawn before the appointment of an Expert.

- iv. It is independently verified that the Respondent has given false contact details to us;

It appears that instead of providing bona fide contact details, Mr Holland provided Nominet with a fictitious pseudonym to suggest a legitimate own-name registration - Ahmed Fayed; provided deficient contact details - a Spanish PO Box address, without email, telephone or fax details; and an email address which the Complainant submits would appear to have been created only to lend legitimacy to Mr Holland's abuse of the Nominet system.

Finally, the Complainant notes that paragraph 4 (e) of the Policy makes it clear that "sale of traffic (i.e. connecting domain names to parking pages and earning click-per-view revenue) is not of itself objectionable under the Policy. However, the Expert will take into account:

- i. the nature of the Domain Name;
- ii. the nature of the advertising links on any parking page associated with the Domain Name; and
- iii. that the use of the Domain Name is ultimately the Respondent's responsibility"

The Complainant asks the Expert in this case to take account of the facts set out above, particularly the Respondent's manipulation of the Nominet system to his own ends. In direct retaliation for the Complainant's solicitor's letter which set out the numerous prior rights of the Complainant in the domain name, and an offer to reimburse out of pocket costs associated with the requested transfer of the domain name, the Respondent resorted to sending a disingenuous email, and turned to malicious use of the domain name by the sponsored links to: 'Egyptian Child Molesters'; 'Egyptian Fraudsters'; and 'Egyptian Conspiracy Theorists'.

For the reasons above, the Complainant requests the urgent transfer of the domain name, and such other disciplinary action against the Respondent as may be available to the Expert under the Policy and Procedure.

Respondent:

In his Response, the Respondent asserted:

It is true that I live near Mr Holland's Marbella office but I provided a copy of my passport to Mr Holland's secretary attesting to my legal name that is indeed Ahmed Faisal Fayed. The seller made it clear to me that they were unable to sell the domain to anyone who could not demonstrate rights in the domain. They sold me the domain name for 15 (fifteen) Euros which I believe is a fair price.

The numerous points that Mr Al Fayed's solicitors have raised are completely irrelevant to me as I wish to operate this domain as my family website. The links that the domain previously carried have been ceased by my written request to my internet service provider.

My surname is "fayed" which exactly corresponds to my domain name whereas the complainant claims that his name is "al fayed" which does not exactly correspond to the domain name.

I ask that this complaint be dismissed and that the claim be adjudged as a clear case of attempted reverse domain name hijacking.

Complainant's Reply:

The Complainant made the following observations in Reply:

The Complainant appreciates that the purpose of the Reply is to deal with points raised in the Response, not to raise new points. With this in mind, the Complainant makes the following comments:

1. 'Mr Fayed' refers to having shown his passport to Mr Holland's secretary in order to acquire the domain name. In the absence of the taking the simple and obvious step of also providing a copy of the passport in support of the Response, this statement alone fails to prove a legitimate own-name registration.
2. It is perverse that an individual genuinely seeking to use the domain name to host his 'family website' would first update the webpage with heading tabs for, amongst other things, 'Child Molesters'. As 'Mr Fayed' has taken down the website at the domain name, we will forward a copy of the website capture as at the date of the Complaint, showing the 4 tab headings 'Home'; 'Egyptian Child Molesters'; 'Egyptian Fraudsters'; and 'Egyptian Conspiracy Theorists'.
3. A detailed response to the Respondent's argument that the surname 'Al Fayed' or the registered trade marks are not identical to the domain name is not required

– 2(a)(i) of the Policy states only that the Complainant should have "rights in respect of a name or mark which is identical or similar to the Domain Name".

4. The allegation of reverse domain name hijacking is a serious one, relating to abusive use of the Policy to deprive a registrant of a domain name in circumstances where a complainant knows that the complaint has no merit within the terms of the Policy, but nevertheless proceeds. For the reasons set out in full in the Complaint submissions, this is patently not the case.

5. Nominet guidance makes it clear that an abusive registration can be found when:

- There was an 'unfair' motive when the domain name was registered;
- There was an 'unfair' use after registration but it has now stopped;
- There was an 'unfair' motive at transfer;
- There is something 'unfair' going on now;
- The domain name is inherently 'unfair'.

The Complainant believes the evidence of abuse, in compliance with the headings above, has been fully set out, and so will refrain from reiterating its original submissions in this Reply.

6. The Complainant notes that the following key issues have not been explained by the Respondent in its Response:

- a) why no proof of identity, or proof of address for 'Mr Fayed' has been produced;
- b) why the domain name, which was first registered in 2004, was transferred to 'Mr Fayed' days after receipt of the Complainant's solicitor's letter dated 23 January 2009 (thus falling foul of Paragraph 4(a)(i) of the Policy);
- c) why the Respondent has a 'uk3.com' company email address; and
- d) why a Spanish resident would want a .co.uk domain name to host his 'family website'.

7. This is aside from the implausibly convenient developments such as finding an own-name buyer for the domain name (presumably to comply with Paragraph 4(a)(i)(B)) and offering the domain name for sale at only EUR 15 (presumably added to circumvent Paragraph 3(a)(i)(A)).

Reading Mr Holland's email of 27 January 2009 in light of the subsequent use of the domain name it is clear that the domain name in the hands of the Respondent – under whatever name he chooses to adopt – is an abusive registration.

6. Discussions and Findings

General

Paragraph 2 of the Policy requires that, for the Complainant to succeed, it must prove to the Expert, on the balance of probabilities, both that it 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 as defined in Paragraph 1 of the Policy.

Complainant's Rights

The Complainant in this case has asserted that it has rights in the names MOHAMED AL FAYED, DODI FAYED and AL FAYED and that these names are each identical or similar to the Domain Name.

It might be questioned why this Complaint has been brought in Harrods' name, and whether Mr Al Fayed himself could or should have been named as a joint Complainant. However, in the Expert's view, this is not a material issue. In the UK, Mr Al Fayed's control of Harrods is common knowledge and there can be little doubt that both are so closely associated in the public mind, that matters affecting one will inevitably reflect on the other either way.

The trade marks and the "alfayed" domain names are held by Harrods in any event, and the Expert therefore accepts that the Complainant has relevant Rights pursuant to Paragraph 2.a.i of the Policy in this case.

Abusive Registration

The Complainant also has to show that the Domain Name is an Abusive Registration. Paragraph 1 of the Policy defines "Abusive Registration" as a Domain Name which either:

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

has been used in a manner, which took unfair advantage of or was unfairly detrimental to the Complainant's Rights.

A non-exhaustive list of factors which may be evidence that a Domain Name is an Abusive Registration are set out in Paragraph 3a of the Policy. The Complainant has asserted that at least the following examples are potentially applicable in this case:

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

A. 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;

...

C. for the purpose of unfairly disrupting the business of the Complainant;

...

iii. 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 trade marks in which the Respondent has no apparent rights, and the Domain Name is part of that pattern;

iv. It is independently verified that the Respondent has given false contact details to us;

The factors listed in Paragraph 3 of the Policy are only intended to be exemplary and indicative. They are not definitive. It is Paragraph 1 of the Policy which provides the applicable definition as indicated above.

Conversely, Paragraph 4 of the Policy sets out examples of factors which may demonstrate that a Domain Name is not an Abusive Registration. Factors which the Expert has considered in this case include:

- 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;
 - C. made legitimate non-commercial or fair use of the Domain Name; or
 - ...
- b. Fair use may include sites operated solely in tribute to or in criticism of a person or business.
 - ...
- e. Sale of traffic (i.e. connecting domain names to parking pages and earning click-per-view revenue) is not of itself objectionable under the Policy. However, the Expert will take into account:
 - i. the nature of the Domain Name;
 - ii. the nature of the advertising links on any parking page associated with the Domain Name; and
 - iii. that the use of the Domain Name is ultimately the Respondent's responsibility.

The nominal Respondent, "Ahmed Fayed", claims to have honestly acquired the Domain Name from the previous registrant, Mr Holland, and to be entitled to the Domain Name as "Fayed" is his own name. The Respondent does not say whether he had notice from Mr Holland of the Complainant's prior demands relating to the Domain Name.

The Complainant maintains that the nominal Respondent does not exist and the name is simply an alias – a false identity - created by Mr Holland to obstruct the Complainant's use of the DRS.

In the Expert's opinion, it is certainly conceivable that the Domain Name could indeed legitimately be owned and operated by a party independent of the Complainant, and in a manner which would not make it an Abusive Registration. It could be as a "Fayed" family site, as the Respondent has contended. It could be

as an educational or travel site about the Egyptian resort city of the same name. It could be for a legitimate tribute or criticism site relating to Mr Al Fayed as a “fair use” pursuant to Paragraph 4.b. of the Policy.

The Complainant, however, has made compelling arguments that the truth is that the nominal Respondent in this case has no such legitimate claim or intentions.

The Expert therefore felt it desirable to offer the nominal Respondent a clear opportunity to rebut the Complainant’s arguments, specifically about his alleged identity. The Respondent has notably failed to make any reply or to produce any documentary evidence to substantiate his identity. The Expert has intentionally waited a week longer than the deadline set by Nominet, to allow for a possible late response to arrive the Respondent, before writing this Decision. Nothing has been received.

The Expert is therefore persuaded that, on the balance of probability, the nominal Respondent is not a real person, but is a false identity created by the previous registrant.

Regrettably, the use of false names of individuals and names of non-existent businesses is a common subterfuge adopted by some discreditable members of the “Domainer” community. It may be done to frustrate action by legitimate rights holders, or to evade normal business regulation and taxes.

The deliberate use of a false identity for the purported registrant would be sufficient alone for the Expert to conclude that the Domain Name was an Abusive Registration. However, in this case, there are plainly additional grounds for such a conclusion.

The Complainant has asserted – both in the Complaint and in the exhibited earlier correspondence with Mr Holland - that the website originally operated by Mr Holland incorporated numerous sponsored links intended to exploit the name and reputation of Mr Al Fayed and the goodwill associated with Harrods. Neither Mr Holland in his correspondence (as evidenced in the Complaint), nor the Respondent, has denied or rebutted the Complainant’s assertion in this respect.

The Domainer community may like to believe that they should be free to carry on such exploitation on the back of the rights established by other legitimate enterprises without restriction. However, as Paragraph 4.e. of the Policy makes clear, there is no free for all.

In the Expert’s opinion, knowingly taking advantage of the rights of another party, without their permission, and using their goodwill and reputation to obtain financial gain is generally going to be considered to take an unfair advantage of those rights. The Expert concludes that, on the balance of probability, such will have been the situation in this case.

Finally, there is the evidence of the website evidently set up under the Domain Name by Mr Holland after receiving the first letter from the Complainant. It is not necessary for the Respondent, or anyone else, to like Mr Al Fayed, and opponents may reasonably criticise some of his views as conspiracy theories, but to headline a

web page at fayed.co.uk with the title “Useful Resources for Egyptian Child Molesters | Egyptian Fraudsters | Egyptian Conspiracy Theorists” surely goes beyond any acceptable terms of criticism. It was obviously intended by Mr Holland to be inflammatory and derogatory, following his gratuitously offensive email response to the Complainant’s letter. It was plainly “Abusive” in the ordinary meaning of the word – grossly offensive and inappropriate; juvenile to say the least – certainly not the action of any legitimate or reputable website operator.

Accordingly, the Expert concludes that the Domain Name in the hands of the nominal Respondent (and/or Mr Holland) is an Abusive Registration, as it has been used in a manner which took unfair advantage of or was unfairly detrimental to the Complainant’s Rights.

7. Decision

Having concluded that the Complainant has Rights in respect of a name or mark which is similar to the Domain Name and that the Domain Name, in the hands of the Respondent, is an Abusive Registration, the Expert determines that the Domain Name, fayed.co.uk, should be transferred to the Complainant.

Signed: Keith Gymer

Dated: 23 March, 2009