

DISPUTE RESOLUTION SERVICE

D00027385

Decision of Appeal Panel

Ritz Hotel (London) Limited (The)

and

Imran Akram and Ritz Executive Cars Ltd

1. The Parties:

Appellant/Complainant: Ritz Hotel (London) Limited (The)
150 Piccadilly
London W1V 9DG
United Kingdom

Respondent: Imran Akram and Ritz Executive Cars Ltd
77 Plumer Road
High Wycombe
HP11 2SR
United Kingdom

2. The Domain Name

The domain name in issue is ritzexecutivecars.co.uk (the "Domain Name")

3. Procedural History

This is an appeal against the decision of Jacqueline Reid (the "Expert") issued on 18 June 2025 in favour of the Respondent. The Complainant filed an appeal notice on 2 July 2025, and the Respondent filed an appeal response on 7 August 2025.

Definitions used in this decision have the same meaning as set out in the Nominet UK Dispute Resolution Service Policy (as in effect from 1 October 2016) (the "Policy") unless the context or use indicates otherwise.

Nick Gardner, Philip Roberts and Ian Lowe (together, "the Panel") have each made a statement to the Nominet Dispute Resolution Service in the following terms:

"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."

4. The Nature of This Appeal

Paragraph 20.8. of the Policy provides that: “The appeal panel will consider appeals on the basis of a full review of the matter and may review procedural matters. The appeal panel should not normally take into consideration any new evidence presented in an appeal notice or appeal response, unless they believe that it is in the interests of justice to do so”. The Panel concludes that insofar as an appeal involves matters other than purely procedural complaints the appeal should proceed as a re-determination on the merits.

The Panel nevertheless takes notice of the Expert’s conclusions that (i) the Complainant had Rights within the meaning of the Policy but (ii) there was no Abusive Registration because “I consider that the Complainant's evidence is insufficient to satisfy me that the Respondent's activities did confuse or were likely to confuse people as to the trade origin of the Respondent's services or otherwise to cause damage to the Complainant's business”.

For convenience the Panel will continue to refer to the parties as the “Complainant” and “Respondent”.

5. Factual Background

The Complainant operates the well-known Ritz Hotel in Piccadilly, London, established in 1906. It is the proprietor of numerous trade mark registrations for RITZ and THE RITZ, including UK registration 2011081 registered on 23 February 1996 in Class 39 in respect of “Agency services for arranging travel; services for the arranging of the transportation of travellers and for the warehousing of goods relating thereto; services for the booking of travel; agency services for the arranging of transportation of goods; tour operating; transportation of passengers by land, air or sea”.

The Respondent registered the Domain Name on 4 August 2010 for use in connection with a chauffeur and executive car hire business operating from Buckinghamshire but offering services in London. It resolves to a website promoting the Respondent’s business.

The Complainant has offered chauffeur driven car services to its guests since 1906.

There is no evidence that any consumer has ever been confused by the Respondent’s activities in terms of believing the Respondent’s business was authorised by or connected with that of the Complainant.

6. Parties’ contentions

The Parties’ contentions before the Expert are set out in the Expert’s decision and it is not necessary to repeat them in detail here.

In the Complaint, the Complainant submits that the Respondent was well aware of the Complainant’s RITZ brand when it registered the Domain Name and that its intention was to appropriate the Complainant’s goodwill in the RITZ name.

The Complainant relied on paragraph 5.1.2 of the Policy, which concerns confusion or the likelihood of confusion between the use of the Domain Name and the Complainant. It also relied on so-called “initial interest confusion”, an attempt to “freeride on the Complainant’s prestigious reputation” and more generally on the unfair advantage allegedly gained by the Respondent as a result of the Domain Name’s association with the Complainant “even if a

visitor ... was to eventually realise that the ... Domain Name has no connection with the Complainant”.

The Respondent submitted that it had been operating under the name Ritz Executive Cars for over 15 years and there was no risk of customer confusion because it operated in an entirely separate industry. It claimed that its use of the Domain Name was lawful and well-established. There was no evidence of bad faith or brand damage to the Complainant and there had been no claims of misrepresentation or confusion since it began operating.

The Complainant's contentions on appeal can be summarised as follows:

- a) The Expert refused to take into account the Complainant’s additional submission;
- b) Insufficient weight was given to the identity of the services;
- c) The Expert erred in finding no abusive registration; and
- d) Undue weight was given to the Respondent’s submissions despite clear and convincing evidence of bad faith actions from the Respondent during the pendency of the proceedings.

The Respondent’s contentions on appeal are essentially that the Expert’s decision was correct.

7. Discussion and Findings

General

Pursuant to paragraph 2.1 of the Policy, the Complainant must prove in relation to the Domain Name, on the balance of probabilities, that:

- i. the Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Name; and
- ii. the Domain Name, in the hands of the Respondent, is an Abusive Registration.

Rights

None of the grounds of appeal challenge the Expert’s findings as to the existence of Rights, but as this is a re-determination on the merits we will still carry out the analysis.

“Rights” are defined in 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 Complainant has established that it is the owner of a number of registered trade marks for the word “Ritz” and “The Ritz”. Those Rights will enjoy the highest degree of acquired distinctive character in relation to the epicentre of the Complainant’s commercial activities namely hotel accommodation services, but they also formally extend to a penumbra of ancillary services such as the Class 39 services specified in the Complainant’s UK trade mark registration cited above.

The Domain Name is, in the opinion of the Panel, similar to these trade marks. It in substance combines the trade mark with a descriptive term “executive cars”. Accordingly, the Panel is satisfied that the Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Name.

Abusive Registration

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

The key consideration under both limbs is the manner of acquisition and use of the Domain Name and the fairness thereof. In the present case the pertinent question is why the Respondent chose to include the word Ritz in the Domain Name. The Respondent himself does not say. He does say “The term "Ritz" is widely used in various industries (e.g., Ritz Crackers, Ritz Cinema, Ritz Music), and my use is completely independent of The Ritz London” and “It was not registered with the intent to exploit or benefit from The Ritz London’s reputation”.

There can in the Panel’s view be only one reason the Respondent chose to include the word Ritz. It was a convenient shorthand to convey a message that his service was a high-class luxury and up-market service. It does that because the word Ritz is associated with the Complainant’s well-known hotel which is famous, and has at all material times been famous, for having exactly those characteristics. There is no evidence that the word Ritz has become generic or passed into common language as a descriptive term.

In the absence of a compelling account to the contrary, on the balance of probabilities the Panel concludes that what the Respondent was seeking to do in registering the Domain Name was to bask directly or indirectly in the reflected glory of the Complainant’s fame. This type of use of someone else’s trade mark is sometimes referred to as “freeriding” - the practice of benefiting from another party's trade mark reputation, goodwill, or investment without authorisation and without contributing to the creation of that value. It is relevant to note that while the Complaint was in the main framed in terms of likely customer confusion, it expressly alleged that the Respondent “has sought to freeride on the Complainant’s prestigious reputation by imitating certain elements of its brand”. The Panel agrees.

The Panel considers that even without evidence of any confusion occurring in practice, this use by the Respondent of the word Ritz as part of the Domain Name takes unfair advantage of and is unfairly detrimental to the Complainant's Rights within the terms of the Policy both at the time the Domain Name was registered and during the period it has been used. The point is readily illustrated by imagining the situation where numerous traders took to using the word Ritz in this manner. Such use would erode the Complainant’s rights and ultimately could prejudice the validity of its trademarks. It does not in the Panel’s opinion matter that there are other users of Ritz as a trade mark in unrelated fields such as crackers and cinemas. It is a well-established principle of trade mark law that the same word can be used in a different field by unrelated parties. The Panel does not consider that such use is prejudicing or taking unfair advantage of the Complainant’s trade mark in the manner that the Respondent is doing.

Paragraph 8.1.1 of the Policy sets out the following factors that may demonstrate that the Domain Name is not an Abusive Registration:

“8.1.1 Before being aware of the Complainant's cause for complaint (not necessarily the 'complaint' under the DRS), the Respondent has:

8.1.1.1 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;

8.1.1.2 been commonly known by the name or legitimately connected with a mark which is identical or similar to the Domain Name; or

8.1.1.3 made legitimate non-commercial or fair use of the Domain Name.”

As the Dispute Resolution Service – Experts’ Overview Version 3 makes clear, the qualification “*before being aware of the Complainant’s cause for complaint*” indicates that the circumstances set out in paragraph 8.1.1 are “only likely to constitute satisfactory answers to the Complaint if they commenced when the Respondent was unaware of the Complainant’s name or mark forming the basis of the Complaint.”

In this case, as set out above, the Panel is satisfied that the reason the Respondent chose to include the term “ritz” in the Domain Name was because of the longstanding association with the Complainant and its well-known hotel. There is no question therefore of the Respondent being unaware of the Complainant’s RITZ mark when it registered the Domain Name, and the Respondent cannot rely on any of the circumstances in paragraph 8.1.1 of the Policy to argue that the Domain Name is not an Abusive Registration.

Accordingly, the Panel agrees with the Complainant’s Appeal Ground c) – the Expert erred in finding a lack of abusive registration. In the light of this finding the Panel does not need to consider the Complainant’s other grounds.

8. Decision

For the reasons set out above the Panel concludes that the Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Name. It concludes that the Domain Name, in the hands of the Respondent, is an Abusive Registration. Accordingly the Appeal is allowed and the Domain Name ritzexecutivecars.co.uk should be transferred to the Complainant.

Nick Gardner

3rd September 2025

Philip Roberts

3rd September 2025

Ian Lowe

3rd September 2025