DISPUTE RESOLUTION SERVICE

D00027948

Decision of Appeal Panel

The PNC Financial Services Group, Inc.

and

Gordon Tees

1. The Parties:

Complainant:
The PNC Financial Services Group, Inc.
The Tower at PNC Plaza
300 Fifth Avenue
Pittsburgh
Pennsylvania 15222
United States

Respondent:
Mr. Gordon Tees
London
United Kingdom

2. The Domain Names:

pnc.co.uk
pnc.uk

3. Procedural History

This is an appeal against the decision of Steven Maier (the "Expert") dated 25 September 2025 in favour of the Respondent.

Ian Lowe, Philip Roberts and Claire Milne (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."

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

4. The Nature of this Appeal

This Complaint and Appeal fall to be determined pursuant to Nominet's Dispute Resolution Service Policy, version 4 (the "Policy"). Definitions used in this decision have the same meaning as set out in the Policy unless the context or use indicates otherwise. In accordance with paragraph 20.8 of the Policy, the Panel has considered the Appeal on the basis of a full review of the matter and a re-determination on the merits. In doing so, it has taken into account the persuasive value of previous appeal decisions (pursuant to paragraph 20.12 of the Policy) and has drawn on relevant sections of the Experts' Overview (version 3) published on Nominet's website.

5. Procedural matters

After the filing of the Reply by the Complainant, the Respondent sought to put before the Expert a non-standard submission - a Rejoinder to the Reply. Paragraph 17 of the Policy provides that the Expert is not obliged to consider any such submission and that a party is required to give a brief explanation as to why there is an exceptional need for it. The Panel does not accept that the non-standard submission was necessary and accordingly declines to admit it.

6. Factual Background

The Complainant is a banking and financial services corporation based in Pittsburgh, Pennsylvania, United States whose banking activities date from the 1800s. It traded as PNC Financial Corp. following a merger in 1983. The Complainant has over 50,000 employees in the United States and at its offices in Canada, the UK, China and Germany. It claims assets in excess of USD 560 billion as of 31 December 2024, with over eight million personal and small business customers.

The Complainant is the proprietor of a number of trade mark registrations in respect of PNC, including United States trademark number 1416898 for the word mark PNC registered on 11 November 1986 and United Kingdom trade mark number 3646957 for the word mark PNC registered on 8 October 2021.

The Complainant’s principal website is at www.pnc.com where it promotes its products and services.

The <pnc.co.uk> Domain Name was registered on 1 August 1996. It appears to have been registered originally in the name of PNC(UK) plc of which the Respondent was then a director and shareholder, but ownership was transferred to the Respondent personally in 2005. The <pnc.uk> Domain Name was registered on 18 August 2014 during the period when the owners of .co.uk domain names had priority to register the equivalent .uk domain name.

Both Domain Names resolve to a website operated by the Respondent’s company Pretty Nice Chaps Limited apparently promoting the Respondent’s IT consulting services under the strapline “pnc Building your business. In the cloud” and referring to “PNC” having operated in London since 1992, providing “high-end technically complex IT solutions”.

7. The Parties’ Contentions

The Respondent accepts the Complainant’s submission that by virtue of its trade mark registrations for the PNC word mark, the Complainant has Rights in a name or mark that is identical to both the Domain Names (ignoring the .co.uk and .uk suffixes) for the purposes of paragraph 2.1.1 of the Policy.

The parties’ contentions are set out in full by the Expert. So far as the allegation of abusive registration is concerned, the essential points made by each of the parties are as follows:

Complaint

1. The Complainant’s use of the PNC mark predates the earliest registration of the Domain Names by over 20 years.
2. The Respondent was aware of the Complainant and its PNC mark when it registered the Domain Names, given his banking sector focus since 1994 and having been employed by Goldman Sachs, a leading global investment bank, before the Domain Names were registered.
3. The Respondent’s websites have promoted its offering “transactional websites”, “eCommerce apps” and “Venture Development and Financing”, services that overlap with those offered by the Complainant.
4. From 2013 to 2016, the Respondent’s website suggested an affiliation with the Complainant by displaying a doctored photograph of the green wall of the Complainant’s headquarters in Pittsburgh, removing its PNC logo but keeping the “PNC” text. The Complainant has been unable to find any letter from the Respondent said to have been sent in 2017 or 2018 explaining that the image had been taken down as soon as the Respondent learned of its origin and apologising.

5. The Respondent’s Crunchbase profile falsely claimed that he was a managing director of the Complainant in 2010.
6. The Respondent has no trade mark rights in respect of PNC but has operated under various dubious company names – Premier Networks Consulting Ltd, PNC(UK) plc and Premier Network Channels - but now uses Pretty Nice Chaps Limited.

Response

1. The <pnc.co.uk> Domain Name was registered 14 years before the Complainant first entered the UK market in 2010, and the <pnc.uk> Domain Name six years before the Complainant’s first UK trade mark registration.
2. The Complainant had no UK presence until 2010 and is still not famous in the UK where the term PNC is most likely to be taken to be a reference to the Police National Computer.
3. The Respondent was employed by Goldman Sachs as an IT Systems Manager and not as a banker and he was not aware of the Complainant at the time he registered the <pnc.co.uk> Domain Name.
4. The Respondent was not responsible for his inaccurate Crunchbase profile which must have been automatically created by Crunchbase’s algorithm after his company deleted its Crunchbase profile in 2013. As soon as he became aware of it, he deleted the link.
5. The Respondent has carried on legitimate businesses using the PNC mark since he founded Premier Networks Consulting Ltd in 1992. By 1997 the company had established alliances with companies including Microsoft, Compaq, IBM and Hewlett Packard and clients included banks, brokers, insurance companies and others in the financial services sector as well as international lawyers. Its turnover for the year to September 1997 was in excess of GBP 2.5 million.
6. After the Respondent sold his majority share in PNC(UK)plc in 2001 he retained an interest in the company and has acted as a consultant since that date. He formed Pretty Nice Chaps Limited in 2010 to preserve his association with the PNC brand in conjunction with his company. He could not be said to have done so to attempt to legitimise his use of PNC having established rights to the mark over 18 years.
7. The Respondent has indeed offered to create transactional websites and applications for eCommerce, but these are IT activities and in no sense financial services. The Complainant does not provide these IT services. His offering “Venture Development and Financing” referred only to advice to other IT companies on structuring sales pitches to potential investors and his companies have never offered funding or development capital. He removed the reference as a gesture of goodwill after the initial complaint by the Complainant.
8. The image of the Complainant’s green wall had been included by a web developer. It was small and on a sub-page of the website. It did not include the PNC logo. The Complainant dismantled the green wall in 2016 and at about the same time the Respondent learned of the image’s provenance and immediately removed it.

9. In all the circumstances, including that a representative of the Complainant made a number of attempts to purchase the Domain Names prior to the Complaint being filed, without disclosing their connection with the Complainant, the Complaint amounts to an attempt at Reverse Domain Name Hijacking.

Reply

1. The Complainant reiterates the contentions in the Complaint and asserts that the Respondent has acknowledged a number of them.
2. The Complainant has done business in the UK for over 25 years and not only since 2010.
3. Even if the registrations of the Domain Names were in good faith, their subsequent use amounts to Abusive Registration.
4. Reverse Domain Name hijacking is denied. The Complainant made perfectly legitimate attempts to purchase the Domain Names with a view to avoiding legal proceedings.

Appeal Notice

1. The Complainant asserts that in finding that the Domain Names were not registered with abusive intent, the Expert failed to give sufficient weight to the Respondent's abusive use.
2. The Respondent's website offered services that were either directly covered by the Complainant's registered trade marks or so similar that confusion was likely:
    a. "transactional websites" – the Complainant's UK registrations cover "financial transfers and transactions services"
    b. smartphone applications for "eCommerce" – registrations cover "non-downloadable software for analysing financial data"
    c. "Venture Development & Financing" services – registrations cover "consultations relating to corporate finance"

   The Complainant submits that in marketing these services the Respondent took unfair advantage of the Complainant's reputation, which created a false association with the Complainant. However, the Expert dismissed any unfair advantage the Respondent may have derived from his marketing because providing IT services for the banking/financial sector was not the same as providing the banking/financial services themselves. But the Complainant states that the Respondent's marketing intentionally blurred that distinction, opening his banking/financial customers to a mistaken connection between the Respondent and the Complainant. Furthermore, as the Respondent's PNC-branded IT services were primarily marketed to the banking/financial sector, the Respondent's offer of "Venture Development and Financing" services for over 13 years strongly supported the Respondent's systemic efforts to free ride on the Complainant's reputation.
3. The Expert gave inadequate weight to the Respondent's three-year use of the doctored image of the Complainant's headquarters.
4. The Expert should have given greater weight to the Complainant's evidence that the Respondent had imputed knowledge of the Complainant when

registering the Domain Names, given the Respondent’s focus on providing tech solutions to the banking, finance and insurance sectors and his position at Goldman Sachs.

5. The Complainant submits that the Expert’s finding of RDNH was erroneous. The Expert should have appreciated that financial institutions need to be zealous and vigilant about fraud risks and domain name abuse. It denies that there was evidence of some objectionable behaviour on its part and asserts that its belief that the Domain Names were abusive registrations was reasonable. It does not accept that its failed attempts to purchase the Domain Names, provoked by “the Respondent’s lack of corporate filings” support a finding of RDNH.

Appeal Response

1. As the Expert found, there is no evidence supporting a finding of abusive registration, particularly taking into account that the <pnc.co.uk> Domain Name was registered 14 years before the Complainant entered the UK.
2. The Expert correctly rejected the allegation of abusive use of the Domain Names. He correctly concluded that the Respondent only ever offered consulting services to the banking industry and not banking services. Furthermore, the Expert upheld the Respondent’s submission that it could not have been taking any advantage of the Complainant’s reputation in the three areas claimed, since the Complainant does not offer transactional websites, smartphone applications for eCommerce, or venture development and financing services.
3. The Expert correctly accepted that the brief use of the green wall image was neither prominent nor anything other than a website design error, corrected when the Respondent discovered it was the Complainant’s image.
4. The Complainant wrongly distorts the Expert’s conclusions as to the inaccurate Crunchbase profile which was corrected by the Respondent at the first opportunity. The circumstances of its creation did not amount to any evidence of actual confusion.
5. The Respondent supports the Expert’s finding of RDNH. It does not understand the Complainant’s reference to a “lack of corporate filings” since they were readily available by an inspection of Companies House records.

8. Discussion and Findings

The Policy requires the Complainant to prove both that it has Rights in respect of a name or mark identical or similar to the Domain Names and that the Domain Names, in the hands of the Respondent, are Abusive Registrations (Policy paragraphs 2.1.1, 2.1.2, and 2.2).

8.1 Rights

Under paragraph 2.1.1 of the Policy, the Complainant must prove that it "has Rights in respect of a name or mark which is identical or similar to the Domain Name". The term "Rights" is defined in paragraph 1 of the Policy as "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, The PNC Financial Services Group, Inc., is a major United States-based financial services corporation. It is not disputed that the Complainant is the proprietor of registered trade mark rights in the mark PNC. These registrations include rights in the United Kingdom, the United States, and the European Union, covering banking and related financial services.

The Domain Names pnc.co.uk and pnc.uk are identical to the Complainant's PNC mark, disregarding the formal country-code suffixes.

On this basis, the Panel concludes that the Complainant has satisfied the threshold requirement under paragraph 2.1.1 of the Policy of demonstrating Rights in respect of a name or mark identical or similar to the Domain Names.

This conclusion is not affected by the fact that the Domain Names were registered before the Complainant obtained its UK trade mark registration or established a presence in the UK market. The question of when Rights were acquired, and whether the Respondent was aware of those Rights at the time of registration, is relevant to the assessment of Abusive Registration under paragraph 2.1.2 of the Policy, not to the threshold question of whether Rights exist.

8.2 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."*

Each of these two limbs (registration/acquisition and use) will be considered separately.

In Nominet DRS proceedings, Policy paragraph 2.2 stipulates that the Complainant bears the burden of proving that the Domain Name is an Abusive Registration on the balance of probabilities. The balance of probabilities standard is the normal standard of proof required in civil court proceedings and is also variously referred to as 'more probable than not' and 'on the preponderance of the evidence' (DRS Experts' Overview paragraph 2.1).

8.3 First limb: allegedly abusive registration/acquisition

Under this limb the Policy requires assessment of circumstances "at the time when the registration or acquisition took place". The domain name <pnc.co.uk> was registered on 1 August 1996 by PNC (UK) plc, the predecessor entity to the Respondent's company. The domain name <pnc.uk> was registered on 18 August 2014 by Mr Gordon Tees.

The Complainant's first UK trade mark was not registered until 8 October 2021. The Complainant entered the UK market in 2010, 14 years after the original domain name registration. At the time of both domain registrations, the Complainant had no registered trade mark rights in the United Kingdom. The Respondent's business, Premier Networks Consulting Ltd, had been operating in the UK since 1992, predating both domain registrations and the Complainant's UK presence.

The Panel does not regard the Respondent's registration of the Domain Names prior to the Complainant’s entry to the UK market as abusive. In circumstances where the registration of the Domain Names took place 25 years and seven years respectively before the Complainant registered its UK trade mark, the Panel would need to see strong evidence before it could conclude that the registrations took unfair advantage of or caused unfair detriment to rights that had not yet been firmly established in this jurisdiction.

On the facts of the present case the Complainant has not satisfied the requirement derived from Appeal Decision DRS 04331 (verbatim.co.uk), that before a domain name registration can be labelled 'Abusive' under the Nominet DRS Policy, the Respondent must generally have had knowledge of the Complainant and/or its Rights at the time of registration.

The basis for this requirement is rooted in the concept of fairness and moral culpability: the appeal panel in *Verbatim* took the view that for a registration to be labelled 'abusive' there had to be something morally reprehensible about the Respondent's behaviour. This principle reflects the understanding that it would be unfair to penalise a respondent who registered a domain name in good faith, without any awareness of a complainant's rights that may not have existed or been known at the time.

While the Experts' Overview explains that "the section of the Appeal decision in DRS 04331 (verbatim.co.uk) dealing with 'knowledge' and 'intent' sets out one panel's views on that topic", it is noted that this requirement is particularly relevant to paragraph 8.1.1 of the Policy, which provides defences for respondents who, before being aware of the Complainant's cause for complaint, used or prepared to use the domain name in connection with a genuine offering of goods or services, were commonly known by the name, or made legitimate non-commercial or fair use of the name.

The Complainant has not proven on the balance of probabilities that the Respondent knew of the Complainant as at the dates of registration. Furthermore, it has not proven that the Respondent ought to have known of the Complainant by reason of his offering IT services to the financial sector.

As at the date of registration the Respondent and Complainant were operating not just in different countries but in different fields of activity. At the time, the Respondent was operating a legitimate IT consulting business under the PNC initials, which stood for Premier Networks Consulting, a name and business established in 1992. The Complainant does not offer transactional websites, smartphone applications for eCommerce, or other such services. The evidence does not establish that the registration of the Domain Names for use in relation to the promotion of IT consulting services had the object or effect of taking unfair advantage of the Complainant's banking business.

No evidence has been presented of any detriment to the Complainant at the time of either domain name registration. The Complainant had no UK presence in 1996 and only a limited presence in 2014. The Complainant's claim that "PNC has long done business in United Kingdom" prior to 2010 is unsupported by evidence.

Moreover as noted above paragraph 8.1.1.1 of the Policy provides that it may be evidence that a domain name is not an abusive registration where, before being aware of the complainant's cause for complaint, the respondent has "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".

The Respondent has continuously operated an IT consulting business under the PNC name since 1992. This use pre-dates both Domain Name registrations and the Complainant's UK presence. While it is true that among the Respondent's clients are major financial institutions (demonstrating the genuine and substantial nature of the business) the Respondent has never himself offered banking or financial services, which would have been illegal without appropriate regulatory authorisation. The suggestion that the Respondent was impersonating a bank is counter-intuitive, given the fact that such perceived association with the Complainant would if anything have deterred the Respondent's actual and prospective banking clients from engaging his services.

In the circumstances the Complainant has failed to establish that the registration or acquisition of the domain names <pnc.co.uk> and <pnc.uk> took unfair advantage of or was unfairly detrimental to the Complainant's rights at the time when the registration or acquisition took place.

8.4 Second limb: allegedly abusive use

The second limb of Abusive Registration applies to a domain name which "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". This limb focuses on the fairness of the use made of the domain name, distinct from the circumstances of its original registration.

The fact that the Domain Names were registered and have been used for a long period of time is also relevant to the second limb analysis. Where a respondent is the senior user and continues to plough his own furrow after the arrival on the UK market of the complainant, it is difficult to see how the requirement for unfair advantage or unfair detriment can be satisfied.

In this connection, the Panel notes the guidance in the Experts' Overview that where a domain name registration pre-dates the Complainant's Rights and the Respondent has not altered its behaviour to capitalise on those rights, the use is generally not to be regarded as abusive. Specifically, the Overview provides: "Ordinarily, provided that the Respondent has done nothing new following the coming into existence of the Complainant's rights to take advantage of those rights, the Respondent's use of the domain name is unlikely to lead to a finding of Abusive Registration."

This principle is derived from decisions involving domain registrations that predate the Complainant's rights, including DRS 02223 (itunes.co.uk), DRS 04962 (myspace.co.uk), DRS 05856 (t-home.co.uk), and DRS 06365 (oasis.co.uk). The Experts' Overview clarifies that the act of registration itself is unlikely to lead to a finding of Abusive Registration when the registration predates the Complainant's rights, and continued use of a broadly similar nature will not constitute abusive use under the second limb of the Abusive Registration definition.

The Respondent's past, present and future business focuses on providing IT consulting services. The commercial trajectory of its service offering has continued materially unaltered by the expansion of the Complainant into the UK financial services market. Had the Respondent not simply continued to provide consulting services to banks and insurers, but started to offer its own financial services, that might be regarded as a form of unfair advantage - an attempt to ride on the coattails or bask in the reflected glory of the Complainant. But that is not this case. If anything, the scope and scale of the Respondent's use of the Domain Names has diminished rather than accelerated in recent years.

- *Alleged confusion*

Paragraph 5.1.2 of the Policy provides that it is evidence of Abusive Registration where "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". If actual confusion is contended, the Complainant should adduce evidence of that confusion. If the contention is that confusion is likely to occur, then an explanation should be given as to how that confusion is likely to arise: Experts' Overview paragraph 3.4.

Despite the Respondent's clients being likely competitors of the Complainant in the UK banking market, thus providing ample potential for any confusion to come to light, the Panel has not been furnished with any evidence of actual confusion among Internet users, misdirected correspondence or lost business opportunities. Furthermore, there has not been any convincing explanation concerning how the confusion would arise in a way that would result in unfair advantage to the Respondent.

The Complainant's arguments regarding confusion are not supported by evidence of actual confusion or unfair disruption of the Complainant's business.

- *Other considerations*

The Complainant has alleged that the Respondent's website included references to "Venture Development & Financing" services. The Respondent acknowledges that his website offered such services, which he voluntarily removed as a goodwill gesture in response to the Complainant's letter of claim. The Panel does not regard the inclusion of this service description as materially altering the underlying core nature of the Respondent's business offering as an IT consultancy.

Slightly more curious is the fact the Respondent's website displayed an image identified as the "Green Wall" from the Complainant's Pittsburgh headquarters between 2013 and 2016. While the Panel has not been furnished with sufficient evidence to resolve how and why this image came to be featured, it makes little difference to the overall analysis. The fact remains that the Respondent removed this image of his own volition between 2016 and 2018 and this voluntary removal is inconsistent with an ongoing intention to imply affiliation with the Complainant. There is no evidence that the Complainant complained about or demanded removal of the image prior to initiating the present dispute. In any event, the Panel considers it highly unlikely that any Internet user coming across the green wall image would necessarily make a connection with the Complainant.

The Respondent's Crunchbase profile did indeed incorrectly refer to him as the Complainant's Managing Director in 2010 and included the Complainant's logo. However, this profile was not connected to the Respondent's websites or the Domain Names. The Respondent's other more prominent profiles, such as LinkedIn, did not include any such reference. Again the Panel regards these as isolated inadvertencies rather than as substantiating the Complainant's allegations of a concerted attempt to impersonate the Complainant.

Finally and significantly, the Panel finds that the Respondent made significant use of the Domain Names in connection with a genuine offering of goods or services, as contemplated by paragraph 8.1.1.1 of the Policy. As the Policy provides, this is evidence pointing away from a finding of abusive registration. In the present case the Panel is satisfied that it demonstrates that the Respondent had a perfectly credible explanation for using the Domain Names unconnected with the existence of the Complainant.

8.5 Conclusions on abusive registration

On the basis of the arguments and evidence presented, the Panel concludes that the Complainant has failed to establish that the Respondent's registration or use of the domain names pnc.co.uk and pnc.uk has taken unfair advantage of or been unfairly detrimental to the Complainant's Rights.

The evidence supports the Respondent's case that the registrations were made and used in good faith for legitimate business purposes and that any overlap in clientele or sector does not amount to abuse under the Policy.

Accordingly the Panel finds that the Complainant has failed to prove on the balance of probabilities that the Domain Names, in the hands of the Respondent, are Abusive Registrations.

9. Reverse Domain Name Hijacking

The Panel also needs to consider whether or not this should be regarded as a case of Reverse Domain Name Hijacking (RDNH). Paragraph 1 of the Policy states that this means “using the [Policy] in bad faith in an attempt to deprive a Respondent of a Domain Name”.

The Respondent submitted in the Response that the numerous anonymous attempts by the Complainant to purchase the Domain Names, combined “with the string of other inaccurate or unsubstantiated claims … suggest a strong case of Reverse Domain Name Hijacking. At the very least, it suggests that the Complainant should withdraw the Complaint and never re-file it.”

The Complainant’s Reply commented on this allegation of RDNH as follows:

> “Findings of RDNH should be ‘restricted to abusive use of the Policy to deprive a registrant of a domain name in circumstances where the Complainant knows that the Complaint has no merit within the terms of the Policy.’ ... DRS002676. … Complainant’s complaint is objectively reasoned and not brought in bad faith. See Sidley Austin LLP v. Mr Anil Mannick … DRS021958 (no RDNH found where “Complainant has provided assertions and evidence to prove that (i) it has Rights in respect of the name ‘SIDLEY’, which is wholly incorporated in the sidleylawyers.co.uk Domain Name, and (ii) it employs lawyers who operate and provide legal services under the ‘SIDLEY’ brand name….”

The original Expert found that this was a case of RDNH. In the Appeal Notice, the Complainant argues that the Expert’s RDNH finding was erroneous, as follows:

> “The need for financial institutions to be zealous and vigilant about fraud risks and domain name abuse should have stopped the Expert from imputing

RDNH bad faith. Finding RDNH requires a high bar. To support it, "evidence of some objectionable behaviour or motive on the part of the Complainant" must be present... DRS023374. RDNH typically applies in cases of dishonesty, where a complainant (1) knew or should have known its case was hopelessly flawed, (2) made false statements, or (3) failed to disclose material evidence. See DRS027838, DRS019313.

That the Expert found some of Respondent's explanations/defences credible does not render unreasonable Complainant's concerns. See DRS023374 ("Although the Complainant has failed to establish that the Domain Name is an Abusive Registration, it does not follow that the Complaint was made in bad faith."). … [T]he record show[s] that Complainant's belief that the Domain Names were abusive registrations was objectively reasonable. In particular, Respondent: (1) advertised actual financial services, including "strategic investment"; (2) offered IT services to the finance/banking industry; (3) displayed a doctored photograph of Complainant's headquarters on his "About Us" page for three years; and (4) owned an external social media Crunchbase profile implying he was Complainant's employee. Additionally, leading IP practitioners fact-checked, prepared, and certified the Complaint.

Finally, the Expert noted that this action followed Complainant's failed attempt to purchase the Domain Names. Not so. Given Respondent's lack of corporate filings, Complainant attempted an anonymous purchase, reasonably believing Respondent's business might be defunct… Having received no response, Complainant undertook reasonable enquiries, asserted its rights, weighed Respondent's assertions, believed them to lack credibility, and filed this dispute with arguments grounded in authority and undisputed facts. Complainants should not be punished for reasonably attempting to resolve disputes outside of the DRS process."

The Appeal Response remarks:

"I adopt the Expert view which broadly adopts the views expressed by the Complainant about the basis of a RDNH finding. Again, the repetition of allegations in… the appeal grounds that the Expert rightly rejected as not evidentially supported by the evidence lends further support to the Expert's conclusion here. I would only stress the significance of the Complainant's anonymous approach to buy the domain name as evidencing the Complainant's deceptive behaviour. To justify this, the Complainant's appeal introduces the new allegation of "the Respondent's lack of corporate filings". This is nonsense and can be disproved by a cursory inspection of Companies House records. The Complainant had no need to hide its identity unless it thought (correctly actually) that it was behaving in bad faith. The appeal grounds and their late filing support the same view."

Since both parties and the Expert have considered this matter under the same three headings, the Panel will also do so. As stated by the Complainant above, RDNH typically applies in cases of dishonesty, where a complainant:

(1) knew or should have known its case was hopelessly flawed,
(2) made false statements, or
(3) failed to disclose material evidence.

The main weight of the Panel's view relates to (1). The Panel admits the possibility that the Complainant may initially have known nothing about the Respondent, but it had ample opportunity to inform itself before lodging the Complaint. The Complainant says that it did not receive a letter about the "green wall" that the Respondent says was sent in 2017 to two separate email addresses and followed up by recorded postal delivery. However, by the end of July 2024 the Complainant had certainly received a letter from the Respondent providing a detailed account of the Respondent's business history, including explanations of:

- their long-established logo, which used a common typeface rather than, as alleged, being copied from the Complainant's,
- their activity being unmistakably IT consultancy rather than financial services, as attested by their website and brochure, and
- the appearance on their website of a photograph of the Complainant's "green wall", minus the Complainant's logo. This had already been removed.

Even if still suspicious of the Respondent, the least that the Complainant should have done was to read the 30 July 2024 letter with care, and look into the evidence supporting these explanations. Instead, it went ahead with the current Complaint, appearing simply to brush aside what it should by now have known about the Respondent. The Complaint repeated the claims about the Respondent having deliberately copied the Complainant's logo and the "green wall" photograph, and ignored the evidence of its field of activity. The Complaint also mentions the Crunchbase entry for the Respondent which it interpreted as evidence of the Respondent's malign intent, although this had long been explained as an error by the Crunchbase website and removed.

Regarding the allegation that the Respondent has abused the Complainant's trade mark in attempts to compete unfairly with the Complainant, the Panel finds convincing the Respondent's argument (supported by evidence) that it would be against its own interests to compete with companies in the financial services sector, as this could mean competing with its own customers. The Complainant appears however to have paid no attention to this argument, but simply swept it aside, while continuing to repeat all its allegations.

The Panel is clear that the Complainant should have known before making the Complaint that its case was hopelessly flawed, especially as it was professionally represented. It has not improved its standing in the Panel's eyes by proceeding to appeal the initial decision while continuing to ignore the Respondent's evidence and arguments.

The Complainant's allegations regarding "the Respondent's lack of corporate filings" are an *ex post facto* rationalisation. It is true that, as at the date of the Complaint, the UK Companies House online search service did not show any records for a company called PNC (UK) Plc or the company registration number 2691360. The same is true today. What both parties appear to have overlooked is that the UK Companies House online search service only provides access to company filings for 20 years post-dissolution. The Respondent has explained that PNC (UK) Plc was dissolved around December 2004, so it is not surprising that no records are currently accessible. However, at all material times prior to December 2024 (including as at the date of the correspondence referred to above in July 2024) those records would have been available. For the avoidance of any doubt the Panel has no reason to doubt the existence prior to December 2004 of PNC (UK) Plc or the authenticity of its audited Corporate Accounts in evidence at Exhibit 2 to the Response.

Regarding (3), the Complaint includes the sentence: "PNC has long done business in United Kingdom and eventually incorporated PNC Financial Services UK Ltd. in August 2010" but provides no evidence of its pre-2010 activities in the UK. Given the Complaint's reliance on the inevitability of the Respondent having heard of the Complainant when he registered the Domain Name in 1996, this lack of evidence is a major omission. If such evidence exists, it would certainly be material to this proceeding and must have been lost or suppressed. The alternative explanation is that no such evidence exists, which would mean that the statement quoted above is false.

Regarding (2), the previous paragraph points to a clear likelihood of at least one false statement by the Complainant. Its denial of receipt of the purported 2017 letter from the Respondent could be another such, as denial would be convenient for it. The Panel finds that the Respondent's evidence of the letter having been sent, together with the Complainant's lack of explanation of its non-receipt, make it more likely than not that the denial is also a false statement. However, the Panel does not need to reach certainty on this count (2), as (1) and (3) between them easily suffice to indicate that this is indeed a case of RDNH.

The Panel also notes the Complainant's citation of previous Nominet cases, in numerical order: DRS 02676, DRS 19313, DRS 21958, DRS 23374 and DRS 27838. The citations are made mainly to establish the grounds used for assessing whether or not RDNH has occurred. The Panel takes no issue with the grounds used in any of these cases; indeed, it has itself adopted those used in the most recent of these, DRS 27838. However, as the Experts' Overview makes clear, under the DRS Policy there is no system of precedent – every case is decided on its own merits, and appeal panels reconsider decisions based on all the available evidence. There are indeed many cases where the Complaint fails and RDNH is alleged but not found, and the first four of the cited cases are examples of this. Equally, there are others where the

Complaint fails and RDNH is both alleged and found, and the last cited case exemplifies this.

DRS 27838 introduces the idea of “Plan B RDNH”, where the complainant fails to buy a domain name from the respondent and tries instead to obtain it via a DRS complaint. This could well be a “Plan B” case, but having already found RDNH the Panel does not find it necessary to discuss that aspect.

10. Decision

The Panel concludes that the Complainant has Rights in a mark which is identical or similar to each of the Domain Names but has failed to establish that either of the Domain Names are Abusive Registrations. Accordingly, the Panel dismisses the appeal and rules that the Domain Names should not be transferred.

Signed: ………………………………….. ……………………………
Ian Lowe Date 07/12/25

Signed: ………………………………….. ……………………………
Claire Milne Date 08/12/25

Signed: ………………………………….. ……………………………
Philip Roberts Date 07/12/25