

## **DISPUTE RESOLUTION SERVICE**

**D00021005**

### **Decision of Independent Expert**

**Bestway Wholesale Limited**

and

**Mr Cristian Stoica**

#### **1. The Parties:**

Lead Complainant: Bestway Wholesale Limited  
2 Abbey Road, Park Royal  
London  
NW10 7BW  
United Kingdom

Respondent: Mr Cristian Stoica  
272 Brompton Rd  
London  
SW3 2AW  
United Kingdom

#### **2. The Domain Names:**

bestsway.co.uk  
bestsways.co.uk

#### **3. Procedural History:**

I confirm that I am independent of each of the parties. To the best of my knowledge and belief, there are no facts or circumstances, past or present, or that could arise in

the foreseeable future, that need be disclosed as they might be of a such a nature as to call in to question my independence in the eyes of one or both of the parties.

17 January 2019 16:45 Dispute received  
18 January 2019 14:31 Complaint validated  
18 January 2019 14:46 Notification of complaint sent to parties  
06 February 2019 01:30 Response reminder sent  
11 February 2019 09:59 No Response Received  
11 February 2019 09:59 Notification of no response sent to parties  
19 February 2019 09:42 Expert decision payment received

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

The Complainant is a UK registered company, No. 01207120. Its domain name <bestway.co.uk> resolves to its website at “www.bestwaywholesale.co.uk”, headlined “Welcome to Bestway. The largest independent wholesale cash & carry operator in the UK”. It appears from the footnote to that website home page that the Complainant is a member of a group that has been in business since at least 2011.

The domain names <bestsway.co.uk> and <bestsways.co.uk> were registered on December 17 and 18, 2018 respectively in the name of Cristian Stoica. That name corresponds to the name of an employee of the Complainant. On December 17, 2018, in response to an email from one of the Complainant’s customers addressed to <[Cristian.Stoica@bestway.co.uk](mailto:Cristian.Stoica@bestway.co.uk)>, an email was sent by the Respondent from <[cristian.stoica@bestsway.co.uk](mailto:cristian.stoica@bestsway.co.uk)>, seeking payment of over £27,000 into a bank account purporting to be but not being that of the Complainant. A similar email was sent by the Respondent from the <bestsways.co.uk> email address to another of the Complainant’s customers on December 18, 2018. In each case payments were made by the customers in the mistaken belief that they were dealing with the Complainant.

#### **5. Parties’ Contentions**

The Complainant says the Domain Names have been set up for the sole purpose of compromising the Complainant's e-mail accounts and fraudulently intercepting various customer payments and misappropriating large sums of money.

#### **6. Discussions and Findings**

To obtain an order for the transfer of the Domain Names, the Complainant needs to prove, on the balance of probabilities, that the Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Names and that each of the Domain Names, in the hands of the Respondent, is an Abusive Registration (DRS Policy, Paragraph 2).

I find that the registered corporate name Bestway Wholesale Limited, in which the Complainant clearly has rights, is similar to each of the Domain Names <bestsway.co.uk> and <bestsways.co.uk>.

Abusive Registration is defined in DRS Policy, Paragraph 1 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.

DRS Policy, Paragraph 5.1 sets out a non-exhaustive list of factors which may be evidence that the Domain Name is an Abusive Registration, including:

5.1.1.3: Circumstances indicating that the Respondent has registered or otherwise acquired the Domain Name primarily for the purpose of unfairly disrupting the business of the Complainant; and

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.

Having regard to the fraudulent use to which each of the Domain Names was used within a day of its registration, I find each of the circumstances set out in Paragraphs 5.1.1.3 and 5.1.2 to be established.

## **7. Decision**

For the reasons set out above, I find that each of the Domain Names is an Abusive Registration in the hands of the Respondent and direct that they be transferred to the Complainant.

**Signed:** Alan L Limbury

**Dated:** February 28, 2019