

LEADR DOMAIN NAME DISPUTE ADMINISTRATIVE PANEL

auDRP_14_09

Single Panellist Decision

13 TAXI (Australia) Pty Ltd

v

Black Cabs Combined Pty Ltd

13taxi.com.au

.au Dispute Resolution Policy – Administrative Panel Decision

1. Parties

- 1.1 The **Complainant** is 13 TAXI (Australia) Pty Ltd ACN 109 598 950.
- 1.2 The **Respondent** is Black Cabs Combined Pty Ltd ACN 007 321 682.
- 1.3 The **Registrar** is NetRegistry.
- 1.4 The domain name is 13taxi.com.au.
- 1.5 The **Provider** is LEADR ABN 69 008 651 232.
- 1.6 The Sole Panellist is Steve White of Suite 604, 109 Pitt Street Sydney NSW 2000 and Suite 838, 419 Collins Street, DOCKLANDS VIC 3004
www.computerlaw.com.au, www.arbitrator.com.au.

2. Whois Searches

2.1 Whois searches conducted by the Panellist disclose the following:

Domain Name	13taxi.com.au
Last Modified	30-Jul-2014 07:21:38 UTC
Registrar ID	NetRegistry
Registrar Name	NetRegistry
Status	serverUpdateProhibited (auDRP)
Status	serverTransferProhibited (auDRP)
Status	serverDeleteProhibited (auDRP)
Status	serverRenewProhibited (auDRP)
Registrant	Black Cabs Combined Limited
Registrant ID	ABN 80007321682
Eligibility Type	Company
Registrant Contact ID	OVST1001
Registrant Contact Name	Stuart Overell
Registrant Contact Email	domains@13cabs.com.au
Tech Contact ID	OVST1001
Tech Contact Name	Stuart Overell
Tech Contact Email	domains@13cabs.com.au
Name Server	ns2.13cabs.com.au
Name Server IP	203.39.89.245
Name Server	ns1.13cabs.com

3. Procedural History

- 3.1 On 25 July 2014 a **complaint** was received by the **Provider**.
- 3.2 On 25 July 2014 the **Provider** sent an acknowledgement.
- 3.3 On 25 July 2014 the complete application was by the **Provider**.
- 3.4 On 25 July 2014 a copy of the **complaint** was submitted.
- 3.5 On 25 July 2014 a request to clarify the **Respondent's** details and lock the domain name during proceedings was emailed to the **Registrar**.
- 3.6 On 31 July 2014 the **Registrar** confirmed via email that the domain name in dispute had been locked.
- 3.7 On 31 July 2014 the **Provider** advised **auDA** of the complaint via e-mail.
- 3.8 On 31 July 2014 the **Provider** sent the **Respondent** an email and written notification of the complaint lodged against it. The **Complainant** was copied in on these notifications.
- 3.9 On 25 August 2014 the **Provider** approached the **Panellist**.
- 3.10 On 25 August 2014, the **Panellist** confirmed his availability, informed the **Provider** that he had no conflict issues with the parties and accepted the matter.
- 3.11 On 25 August 2014, the case file and relevant correspondence was forwarded onto the **Panellist**.
- 3.12 On 25 August 2014, the parties to the dispute were notified of the **Panellist's** allocation.
- 3.13 The parties filed the following submissions:
 - (a) **Complainant** 25 July 2014 [“**CS25JUL14**”];
 - (b) **Respondent** 20 August 2014 [“**RS20AUG14**”];
 - (c) **Complainant** 25 August 2014 [“**CS25AUG14**”]; and
 - (d) **Respondent** 4 September 2014 [“**RS04SEP14**”]

4. Preliminary Issue

- 4.1 The **Respondent** submitted¹ that the issues in this proceeding have been clearly ventilated in **CS25JUL14** and **RS20AUG14** and **CS25AUG14** did not advance the matter, was unnecessary and should not be accepted by the **Panellist**.
- 4.2 The **Respondent** further submitted that previous decisions under the **auDRP** have established that further statements will only be allowed in exceptional circumstances².
- 4.3 For instance, in *Terra Plana International*, Panellist Swinson refused to consider supplementary submissions from the **Complainant** noting that:

"the supplementary submissions that have been provided by the Complainant offer rebuttal arguments on several issues, but do not address the key elements of the Policy that need to be satisfied, or offer evidence that was previously unavailable. Accordingly, the Panel declines to accept the supplementary submissions as part of the record in this proceeding.

- 4.4 However, it is discretionary as to whether or not same should be accepted and the **Panellist** has in the complex circumstances of this case which are set out below decided to hear all submissions to ensure natural justice between the parties.

5. Introduction

- 5.1 The submissions received from the parties are extensive and it is worthwhile spending some time to set out same as ultimately this decision depends on the very unusual facts of this case.
- 5.2 The parties spent some time pressing their arguments based upon previous decisions of various panels.
- 5.3 Whilst those decisions may be helpful it is very important to note that the domain name dispute system is not one of *stare decisis*.
- 5.4 Importantly, there are no appeal rights (other than to commence proceedings³ in a Court to stop a transfer).
- 5.5 Those appeal rights are critical for a system based on *stare decisis* with its concept of a binding decision (to be corrected on appeal if appropriate) and the principles of comity (eg not departing from a decision of an equally ranked Court unless the earlier decision was clearly wrong⁴ – that being a matter which should, in due course, be picked up appeal and which option is not available in this jurisdiction).
- 5.6 It is also notable that many of the decisions to which the parties refer operate in a different factual context to that of the **Smartnumber** system as operated in Australia.
- 5.7 It is also notable that by attempting to focus on those decisions the parties in their submissions attempted to put a gloss on the **auDRP** wording or ignore the explicit wording of the **auDRP** which is on its text subtly but substantially different to the **UDRP**.
- 5.8 Nothing turns on these observations set out in [5.2] to [5.7] above other than to the extent that they are expressly submitted by the **Complainant**.

¹ **RS04SEP14**, p1

² [Terra Plana International Ltd. v. The Summer House Australia Pty Ltd / Tanya Greenwood \[2012\] AUDND 30](#) (22 November 2012) at 6(A)

³ The exact nature of those proceedings (if appellate in any way at all) is not clear.

⁴ eg [7.101] below

6. Complainant's submissions

- 6.1 Since 2004 the **Complainant** has been planning for, and subsequently operating a business through which it provides communication links between customers and taxi firms⁵.
- 6.2 Dialling the **Smartnumber** 13TAXI (138294) in any place in Australia will connect callers through the 13TAXI service to a local taxi provider⁶.
- 6.3 The **Complainant** has obtained the following exclusive rights in relation to this business⁷:
- (a) since 14 September 2004, the **Complainant** has had the sole right of use of the **Smartnumber** 138294, which corresponds to the phoneword 13TAXI;
 - (b) the 13TAXI **Smartnumber** was allocated through an auction run by the Australian Communications Authority ("**ACA**"), now the Australian Communications and Media Authority ("**ACMA**");
 - (c) 13TAXI **Smartnumber** was advertised as being auctioned by **ACA** at the latest on 1 October 2003;
 - (d) the **Complainant** paid \$1,005,001.00 at the auction by **ACA** for the rights to this **Smartnumber**;
 - (e) since 2004, the **Complainant** has been preparing for and then operating a business under the 13TAXI name;
 - (f) on 18 June 2004 the **Complainant** registered as a company and has been known by the name 13TAXI (Australia) Pty Ltd since 11 May 2005.
- 6.4 The **Complainant** has registered Australian trade marks for:
- (a) the word 13TAXI (trade mark no. 1028383) from 5 November 2004; and
 - (b) the composite image of the words 13TAXI in a rectangular logo (trade mark number no. 1028382), from 5 November 2004.
- 6.5 On 9 November 2004, the **Complainant** registered the domain name 13TAXI.net.au.
- 6.6 A **Smartnumber** is a telephone number allocated by the Commonwealth Government through an online auction system administered by the ACMA as the successor organisation to the **ACA**.
- 6.7 The holder of a **Smartnumber** obtains registration and exclusive rights pursuant to the *Telecommunications (Freephone and Local Rate Numbers) Allocation Determination 2007* (No. 1) (Cth) and the *Telecommunications Numbering Plan 2013* (Cth).
- 6.8 **Smartnumbers** provide a valuable commercial advantage through ease of recollection and uniform national use⁸.
- 6.9 The **Complainant** paid \$1,005,001 for the rights to this **Smartnumber**, which remains the most expensive **Smartnumber** ever allocated through the **ACMA** auction system.
- 6.10 This demonstrates the value of the **Smartnumber** to the **Complainant** and to the general community.
- 6.11 The **Respondent**, working with Cabcharge, was an unsuccessful bidder for the 13TAXI **Smartnumber**⁹.
- 6.12 The **Complainant's** business is predicated on the use of the 13TAXI **Smartnumber**.

⁵ CS25JUL14, p3.1

⁶ CS25JUL14, p3.1

⁷ CS25JUL14, p3.2

⁸ CS25JUL14, p4.1

⁹ CS25JUL14, p4.2

- 6.13 The **Complainant** provides a national service that relies upon consumers being aware of its number and using it to book taxi services.
- 6.14 The 13TAXI **Smartnumber** is unique to the **Complainant's** business.
- 6.15 The **Complainant** has not consented to or in any way authorised the use of the 13TAXI name or **Smartnumber** by any other person¹⁰.
- 6.16 The **Complainant** has made sufficient use of the term 13TAXI to register the 13TAXI trade marks¹¹.
- 6.17 Examples of the **Complainant's** use of 13TAXI and its reputation for the name include:
- (a) the **Complainant** uses the **Smartnumber** to operate its connection service and has registered more than 3.5 million calls through this number in the past 6 years;
 - (b) the **Complainant** operates the website 13TAXI.net.au and has been the registrant of that domain name since 9 November 2004;
 - (c) the **Complainant** has arranged for the 13TAXI **Smartnumber** to be displayed on taxi vehicles by fleets who use the 13TAXI service; and
 - (d) the **Complainant** has promoted the 13TAXI **Smartnumber** and its services through radio advertising.
- 6.18 The **Respondent** operates a taxicab service in Melbourne Victoria under the name Black Cabs.
- 6.19 Black Cabs uses a different **Smartnumber** that corresponds to 13CABS, which was allocated prior to the creation of the auction system under which 13TAXI was auctioned.
- 6.20 The **Respondent** is the registrant of the domain name 13CABS.com.au¹².
- 6.21 On 3 October 2003, the **Respondent** registered 13taxi.com.au.
- 6.22 The registration of the domain name 13taxi.com.au occurred two days after the **ACA** publically announced on 1 October 2003 that it intended to auction new **Smartnumbers** to the public, including the 13TAXI **Smartnumber**¹³.
- 6.23 Following its purchase of the 13TAXI **Smartnumber** at auction in September 2004, the **Complainant** became aware that the **Respondent** had registered 13taxi.com.au¹⁴.
- 6.24 When a user enters 13taxi.com.au, the content of the Black Cabs website 13cabs.com.au is displayed.
- 6.25 That is to say, other than the domain name, the 13TAXI.com.au appears to be identical to the 13CABS.com.au website and provides access to services offered by Black Cabs¹⁵.
- 6.26 To the best of the **Complainant's** knowledge, the **Respondent** does not utilise the name 13TAXI in its business operations, other than through 13taxi.com.au in the manner discussed above, and has no rights to use the name 13TAXI or the **Smartnumber**¹⁶.
- 6.27 The **Respondent** is aware that it is not the holder of the 13TAXI **Smartnumber** or the 13TAXI trademark, and that these rights are instead held by its competitor, the **Complainant**.
- 6.28 These conclusions can easily drawn on the bases that the **Respondent**¹⁷:

¹⁰ CS25JUL14, p4.3

¹¹ CS25JUL14, p4.4

¹² CS25JUL14, p5.1

¹³ CS25JUL14, p5.3

¹⁴ CS25JUL14, p5.2

¹⁵ CS25JUL14, p5.4, See Annexure 1 of this decision for the relevant screenshot

¹⁶ CS25JUL14, p5.5

- (a) is a competitor of the **Complainant**;
- (b) being the holder of a different **Smartnumber**, is aware of the value of **Smartnumbers**;
- (c) registered the domain name 13taxi.com.au immediately after the **ACA** announced its intention to auction **Smartnumbers** including the 13TAXI **Smartnumber**;
- (d) bid unsuccessfully for the 13TAXI **Smartnumber** at auction; and
- (e) engaged in correspondence with the **Complainant** on 13 September 2007¹⁸, in which:
 - (1) the **Respondent** acknowledged that it was aware of the 13TAXI service and 13TAXI's online presence, whilst making unsubstantiated and unpursued allegations about the nature of the 13TAXI service;
 - (2) the **Respondent** stated that it has no connection or affiliation to the 13TAXI service, despite holding 13taxi.com.au at the time; and
 - (3) the **Complainant** replied to the **Respondent** on 17 September 2007¹⁹ and no further action was taken at that time.

6.29 Under **auDRP**, p4(a)(i), the **Complainant** is required to show that 13taxi.com.au is identical or confusingly similar to a name, trade mark or service mark in which the complainant has rights.

6.30 This is in contrast to the Uniform Domain Name Dispute Resolution Policy (**UDRP**), which refers only to trade marks or service marks.

6.31 The **auDRP** states that, for the purposes of p4(a)(i), a 'name' refers to a **Complainant's** company, business or other legal or trading name, as registered with the relevant Australian Government Authority²⁰.

6.32 The **Complainant** submits that 13taxi.com.au is identical to or confusingly similar to the **Complainant's**:

- (a) registered trade marks;
- (b) registered company name; and
- (c) **Smartnumber**²¹.

6.33 The **Complainant** is the registered owner in Australia of the following Trade Mark registrations²²:

- (a) trade mark No. 1028383, being the word 13TAXI, registered from 5 November 2004.

This trade mark is registered in Class 38 for the transmission of commercial and business information through the establishment of a telephone network and providing communication links between customers and taxi firms; and

- (b) trade mark No. 1029392, being the composite mark 13TAXI²³, registered on 5 November 2004.

This trade mark is registered in class 38 for Telecommunication services including the transmission of commercial and business information through the establishment

¹⁷ **CS25JUL14**, p5.6

¹⁸ See Annexure 11 to this decision

¹⁹ See Annexure 12 to this decision.

²⁰ **CS25JUL14**, p6.1

²¹ **CS25JUL14**, p6.2

²² **CS25JUL14**, p6.3

²³ See Annexure 8 to this decision.

of a telephone network and providing communication links between customers and taxi firms.

It is also registered in Class 39 for Transport services; taxi transportation services including the hiring and booking of taxi cars and taxi trucks; and travel arrangements in relation to taxis including the provision of location identification details sufficient to enable taxi vehicles to be directed to the location of taxi passengers.

- 6.34 The **Complainant** submits²⁴ that, apart from the suffix '.com.au', 13taxi.com.au is identical to the **Complainant's** registered trade mark in the word 13TAXI.
- 6.35 The addition of the suffix .com.au does not create a substantive, meaningful or material change to 13taxi.com.au²⁵ and so 13taxi.com.au is identical to the registered trade mark of the **Complainant**.
- 6.36 Further and in the alternative, the **Complainant** submits²⁶ that apart from the suffix '.com.au', 13taxi.com.au is identical or confusingly similar to the **Complainant's** registered name, 13 TAXI (Australia) Pty Ltd.
- 6.37 Again the suffix '.com.au' does not alter the fact that 13taxi.com.au uses the same terms as the **Complainant's** registered company name, whilst directing to a rival business. 13taxi.com.au is either identical to, or confusingly similar to, the **Complainant's** registered company name 13 TAXI (Australia) Pty Ltd.²⁷
- 6.38 Further and in the alternative, the **Complainant** submits²⁸ that even without the registered trade marks and company name, the 13TAXI **Smartnumber** is of such importance that it should be considered to represent the **Complainant's** name under the **auDRP**.
- 6.39 This is consistent with the decision in the *1300homeloan* case²⁹ where it was considered that the purchase and use of a **Smartnumber** phoneword qualified as a name for the purposes of the **auDRP**.
- 6.40 This is further supported by the practice of the Registrar of Trade Marks to refuse to register as a trade mark, any number which includes a **Smartnumber**, unless the applicant has obtained the right to use the relevant **Smartnumber** from the **ACMA**³⁰.
- 6.41 Additionally, the **Complainant** has made significant use of the **Smartnumber** in operating its business.
- 6.42 It moved quickly to apply for the trademark 13TAXI within two months of winning the auction for the **Smartnumber** and has made use of and advertised the 13TAXI number to provide services.
- 6.43 This gives the 13TAXI **Smartnumber** a secondary meaning that qualifies it as a name.
- 6.44 This use of the **Smartnumber** distinguishes the **Complainant's** actions from those of the Complainant in *Inbound Telecommunications* and brings the 13TAXI **Smartnumber** within the construction of a name under the majority opinion in that case^{31,32}.

²⁴ **CS25JUL14**, p6.4

²⁵ See [Jasham Pty Ltd v Perfume Empire Pty Ltd](#) (LEADR, 20 February 2006)

²⁶ **CS25JUL14**, p6.5

²⁷ See [GlobalCenter Pty Ltd v. Global Domain Hosting Pty Ltd](#) WIPO case DAU2002-0001 where a similar, but not identical company name was found to be confusingly similar to a domain name.

²⁸ **CS25JUL14**, p6.6

²⁹ [John Kolenda v 1300 Phonewords Pty Ltd](#) WIPO case DAU2009-0001

³⁰ Part 22 of the Trade Marks office Manual of Practice and Procedure, IP Australia, p14.4

³¹ see [Inbound Telecommunications Pty Ltd, Phonename Marketing Australia Pty Ltd v 1300 Directory Pty Ltd, Demetrio Padilla](#), WIPO case no. DAU2009-0018

³² **CS25JUL14**, p6.7

- 6.45 The **Complainant** submits³³ in any case, that the opinion of the dissenting member in *Inbound Telecommunications* – that a **Smartnumber** registered with the **ACMA** is in itself a 'name' under the **auDRP** – more accurately reflects the value of a **Smartnumber**, in particular, that "no-one else can use a phoneword unless they have secured the rights to the **Smartnumber**"³⁴.
- 6.46 On either view, the **Smartnumber** 13TAXI should be considered a name within the meaning of the **auDRP**.
- 6.47 Absent the suffix .com.au 13taxi.com.au is identical to the **Smartnumber** of the **Complainant** and is therefore identical to the **Complainant's** name³⁵.
- 6.48 Under **auDRP**, p4(a)(i) the **Complainant** is required to show that the **Respondent** has no rights or legitimate interests in respect of 13taxi.com.au.
- 6.49 The **Complainant** submits that the **Respondent** has no such rights or interests³⁶:
- (a) in the name 13TAXI;
 - (b) in 13taxi.com.au, having regard to the **auDA** Policy on Domain Name Eligibility policy (the **Domain Name Policy**); or
 - (c) having regard to the non-exhaustive list of circumstances in **auDRP**, p4(c)(i).
- 6.50 The **Complainant** has not consented to or in any way authorised the use by the **Respondent** of the 13TAXI name, its trade marks or the 13TAXI **Smartnumber**³⁷.
- 6.51 The **Respondent** has never been known by the name 13TAXI or any variation of that name.
- 6.52 The **Respondent** has no interest in the business name 13TAXI, and has never conducted any business through this name, other than in registering and using 13taxi.com.au.
- 6.53 The **Respondent** has acknowledged in written correspondence³⁸, that it has no connection to and no rights in the name 13TAXI, the 13TAXI trade marks or the 13TAXI **Smartnumber**³⁹.
- 6.54 Numerous decisions have found that a respondent cannot have legitimate rights or interests in a domain name featuring a trade mark where it is aware that it does not have the right to use the trade mark and where the domain name featuring the trade mark is used to attract business to a party that not related to the holder of the trade mark⁴⁰.
- 6.55 The **Respondent** has been aware of the **Complainant's** registration of the **Smartnumber** and other rights since at least 2004 and so in continuing its use of 13taxi.com.au, has been misusing the **Complainant's** name and trade marks.

³³ **CS25JUL14**, p6.8

³⁴ See dissenting opinion of Warwick A. Rothnie in [Inbound Telecommunications Pty Ltd, Phonename Marketing Australia Pty Ltd v 1300 Directory Pty Ltd, Demetrio Padilla](#), WIPO case no. DAU2009-0018

³⁵ **CS25JUL14**, p6.9

³⁶ **CS25JUL14**, p7.1

³⁷ **CS25JUL14**, p7.2

³⁸ See Annexure 11 to this decision

³⁹ **CS25JUL14**, p7.3

⁴⁰ [Volvo Trade Mark Holding AB v Lorna Kang](#) WIPO Case no D2004-0909; [Nikon v Technilab](#) WIPO case no [D2000-1774](#); [Bianjade Enterprises Pty Ltd v Leigh Michael Connelly](#) WIPO Case No. DAU2003-0003; see also the opinion of Warwick A Rothnie in [Inbound Telecommunications Pty Ltd, Phonename Marketing Australia Pty Ltd v 1300 Directory Pty Ltd, Demetrio Padilla](#), WIPO case no. DAU2009-0018

- 6.56 The **Respondent's** conduct is designed to cause consumers who enter or search for the 13TAXI brand to use 13CABS services, to the detriment of the **Complainant** and this does not represent a legitimate interest under the **UDRP** or the **auDRP**⁴¹.
- 6.57 The **Respondent** is also not entitled to use 13taxi.com.au under the **Domain Name Policy** regardless of the fact that the **Respondent** has registered 13taxi.com.au⁴².
- 6.58 Under Schedule C of the **Domain Name Policy**, Domain names must be an exact match, abbreviation or acronym of the registrant's name or trade mark, or otherwise closely and substantially connected to the registrant in accordance with the guidelines on interpretation of the **Domain Name Policy**⁴³.
- 6.59 13taxi.com.au is not an exact match, abbreviation or acronym for the **Respondent's** name or trade mark.
- 6.60 Details of the **Respondent's** business name and trade marks are provided at Annexure 14 to this decision⁴⁴.
- 6.61 13taxi.com.au is not closely and substantially connected to the **Respondent**, for the following reasons⁴⁵:
- (a) the term 13TAXI cannot in these specific circumstances, mean anything other than a phoneword, attached to a **Smartnumber**;
 - (b) **Smartnumbers** have an important descriptive and commercial importance to the **Complainant** and indeed the **Respondent**;
 - (c) the **Respondent** cannot claim that it is not aware of this meaning and importance because the **Respondent** itself uses a **Smartnumber** for commercial purposes;
 - (d) indeed, the **Respondent** did not seek to register 13taxi.com.au until after the **ACA** had announced that the **Smartnumber** 13TAXI was to be auctioned, demonstrating the relevance of the **Smartnumber** to the registration;
 - (e) in these circumstances the term 13TAXI has a specific meaning as a **Smartnumber** and is not merely a variation on the term taxi;
 - (f) as such, the addition of the prefix 13 cannot be disregarded⁴⁶ and 13TAXI must be considered a complete and distinguishable term in the taxi industry that can only represent the **Complainant** and its **Smartnumber**⁴⁷;
 - (g) the **Respondent** cannot claim that its business is closely or substantially connected to the **Smartnumber** 13TAXI as it is aware that it does not and has never had any rights in that **Smartnumber**;
 - (h) a **Smartnumber** that belongs to a competitor cannot in these circumstances be considered to be connected to the service offered by the **Respondent**; and
 - (i) therefore the **Respondent** is not closely or substantially related to the **Smartnumber** or 13taxi.com.au.

⁴¹ CS25JUL14, p7.4

⁴² The auDRP expressly provides at footnote 2 to p4(a)(i) that for the purposes of the policy, auDA has determined that "rights or legitimate interests in respect of the domain name" are not established merely by a registrar's determination that the respondent satisfied the relevant eligibility criteria for the domain name at the time of registration

⁴³ CS25JUL14, p7.5

⁴⁴ CS25JUL14, p7.6

⁴⁵ CS25JUL14, p7.7

⁴⁶ cf. *13Flowers Pty Ltd v Flowers on the Net Pty Ltd* (LEADR, 8 April 2005)

⁴⁷ See *Jasham Pty Ltd v Perfume Empire Pty Ltd* (LEADR, 20 February 2006) where it was found that a given term could be given specific meaning and be distinguishable in the relevant industry.

- 6.62 If a **Respondent** can demonstrate that any of the list of circumstances in **auDRP**, p4(c) apply, this will be taken to demonstrate its rights or legitimate interests in a domain name.
- 6.63 The **Complainant** submits that none of these circumstances apply in this case⁴⁸.
- 6.64 **auDRP** p4(c)(i) does not apply because either the **Respondent** has been aware of the substance of the dispute since the time of registration; or, in the alternative, because the **Respondent** has not made bona fide use of 13taxi.com.au in connection with an offering of goods or services⁴⁹.
- 6.65 When the **Respondent** registered 13taxi.com.au it was aware that the domain name corresponded with a name and **Smartnumber** that it did not own.
- 6.66 The **Respondent** was a registrant of a **Smartnumber** and knew the significance of the **Smartnumber** to a potential competitor.
- 6.67 The **Respondent** registered 13taxi.com.au on 3 October 2003, two days day after the **ACA** announced its intention to auction further **Smartnumbers**, including the 13TAXI **Smartnumber**.
- 6.68 It should be inferred that the **Respondent** has been aware of the potential for a dispute with the winner of the auction and the holder of the **Smartnumber** (if the **Respondent** did not itself win the auction) since the time of registration of 13taxi.com.au.
- 6.69 As such, the **Respondent** was aware of at least the underlying facts that give rise to this dispute at the time of registration.
- 6.70 In the alternative, the **Respondent** has not at any point made bona fide use of, or sought to make bona fide use of 13taxi.com.au or a name corresponding to 13taxi.com.au in connection with an offering of goods or services.
- 6.71 The **Respondent** does not have and has never had any legitimate rights to use the 13TAXI name or **Smartnumber** and only registered 13taxi.com.au when it was announced that the 13TAXI **Smartnumber** was to be auctioned.
- 6.72 The **Respondent** does not make any use of the 13TAXI name, other than to redirect⁵⁰ customers who have sought to access 13taxi.com.au to its separate 13CABS services.
- 6.73 The content on 13taxi.com.au does not use or relate to the 13TAXI **Smartnumber** or name and the **Respondent** has never sought to use or advertise the name 13TAXI in connection with offering services.
- 6.74 Additionally, to the best of the **Complainant's** knowledge, the **Respondent** only published content on 13taxi.com.au after it became aware that the **Complainant** had the rights to the 13TAXI **Smartnumber**.
- 6.75 In these circumstances the **Respondent** has not made bona fide use of 13taxi.com.au in connection with an offering of goods or services⁵¹.
- 6.76 The **Respondent** has never been known by 13taxi.com.au and so cannot rely on **auDRP**, p4(c)(ii)⁵².
- 6.77 The **Respondent** is making commercial use of the domain for commercial gain and so cannot rely on **auDRP** p4(c)(iii)⁵³.

⁴⁸ **CS25JUL14**, p7.8

⁴⁹ **CS25JUL14**, p7.9

⁵⁰ The use of the word "redirect" is not used in the sense of a domain name redirection but instead refers to the activity seen in Annexure 1.

⁵¹ [Bianjade Enterprises Pty Ltd v Leigh Michael Connelly](#) WIPO Case No. DAU2003-0003; [Jasham Pty Ltd v Perfume Empire Pty Ltd](#) (LEADR, 20 February 2006)

⁵² **CS25JUL14**, p7.10

⁵³ **CS25JUL14**, p7.11

- 6.78 Given that the '13' prefix in 13taxi.com.au clearly denotes a **Smartnumber**, in circumstances where the **Respondent** does not hold the registration to the corresponding **Smartnumber**, the **Respondent's** provision of services relating to the Australian taxi industry is insufficient to establish any legitimate interest in relation to 13taxi.com.au.
- 6.79 This case should not turn on any right of the **Respondent** to use the word 'TAXI'. The addition of the 13 prefix to TAXI in 13taxi.com.au exclusively and inexorably links 13taxi.com.au to the 13TAXI **Smartnumber**.
- 6.80 Given that the **Respondent** does not hold the registration of the 13TAXI **Smartnumber**, the **Respondent** cannot have any legitimate interest in 13taxi.com.au.
- 6.81 To the extent that the panel in the 13Flowers case accepted submissions that the '13' prefix was 'comparatively meaningless or [may] have other descriptive or commercially significant meanings', the panel either did so in error, or alternatively, did so in the context of an industry where **Smartnumbers** and phoneword are less significant than in the taxi booking industry.
- 6.82 In the taxi booking industry the Phoneword has primacy - in service names (i.e. 13TAXI and 13CABS) and in use by customers.
- 6.83 The **Respondent's** timing in registering 13taxi.com.au immediately after the announcement of the auction of the 13TAXI **Smartnumber**⁵⁴ is further evidence of the true nature of 13taxi.com.au⁵⁵.
- 6.84 As such, the **Complainant** submits that the **Respondent** has no legitimate rights or interests in 13taxi.com.au⁵⁶.
- 6.85 Under **auDRP**, p4(a)(iii) the **Complainant** is required to show that 13taxi.com.au has been registered *or* is being used in bad faith.
- 6.86 This is a less onerous requirement than under the **UDRP** which requires that a domain name be *both* registered *and* used in bad faith⁵⁷.
- 6.87 In demonstrating bad faith, the **Complainant** relies on the non-exhaustive list of circumstances in **auDRP**, p4(b).
- 6.88 The **Complainant** submits that the **Respondent's** actions can be found to be in bad faith under any of the alternative grounds in **auDRP** p4(b)(ii), (iii) or (iv).
- 6.89 If any of these grounds are made out the **Respondent** will be using 13taxi.com.au in bad faith under the **auDRP**⁵⁸.
- 6.90 **auDRP**, p4(b)(ii) relates to circumstances where a domain name has been registered in order to prevent the owner of a name, trade or service mark from reflecting that name or mark in a corresponding domain name⁵⁹.
- 6.91 At the time of registering 13taxi.com.au the **Respondent** knew that it was not the registered holder of either the **Smartnumber** or trade marks for 13TAXI.
- 6.92 It can be inferred that the **Respondent** registered 13taxi.com.au knowing that the **Smartnumber** 13TAXI was to be auctioned, as the **Respondent** registered 13taxi.com.au two days after the **ACA** announced that the **Smartnumber** was to be auctioned.
- 6.93 On this basis the **Respondent's** registration was made to prevent the owner of the **Smartnumber** from using the domain name, should the **Respondent** itself be unsuccessful in itself acquiring the **Smartnumber** at auction.

⁵⁴ see [6.22] above

⁵⁵ **CS25JUL14**, p7.12

⁵⁶ **CS25JUL14**, p7.13

⁵⁷ **CS25JUL14**, p8.1

⁵⁸ **CS25JUL14**, p8.2

⁵⁹ **CS25JUL14**, p8.3

- 6.94 Even if at the time of registration of 13taxi.com.au the **Respondent** may have anticipated winning the auction for the 13TAXI **Smartnumber** and using it in concert with 13taxi.com.au, from at least the time the **Respondent** lost the auction any subsequent use and renewal has been in bad faith.
- 6.95 Further, and in the alternative, since 2004, the **Respondent** has been aware of the **Complainant's Smartnumber** and of its name, business and trade marks since at the latest 2007.
- 6.96 The **auDA** policy for Domain Renewal, Expiry and Deletion 2010-01 published 18 April 2010 requires that domain names be renewed at least every two years.
- 6.97 The **Respondent** has, therefore, renewed 13taxi.com.au on a number of occasions and sought to maintain registration of 13taxi.com.au whilst being aware of the **Complainant's** rights.
- 6.98 The **Complainant** submits that it has done so in order to prevent the **Complainant** registering 13taxi.com.au that corresponds to its trade marks and **Smartnumber**⁶⁰.
- 6.99 On either basis the **Respondent's** registration and ongoing use of the 13taxi.com.au website is a clear obstruction of the **Complainant's** use of 13taxi.com.au which reflects its Name, **Smartnumber** and Trade Mark.
- 6.100 This is not affected by the **Complainant's** ownership of the domain name 13taxi.net.au as the **Respondent** is still preventing the **Complainant** utilising the more popular .com.au suffix that refers to its Name, **Smartnumber** and Trade Mark.
- 6.101 **auDRP**, p4(b)(iii) relates to circumstances where a domain name has been registered primarily for the purpose of disrupting the business or activities of another person⁶¹.
- 6.102 The **Complainant's** business is predicated on the direction of calls through the 13TAXI **Smartnumber** to its suppliers.
- 6.103 The **Complainant** paid valuable consideration for the rights to this **Smartnumber** at an auction at which the **Respondent**, working with Cabcharge, bid unsuccessfully;
- 6.104 The **Respondent**, as a holder itself of a **Smartnumber**, cannot deny that it is aware of the critical nature of the **Smartnumber** to a business operating in the taxicab industry and the importance of a **Smartnumber** in directing phone traffic.
- 6.105 As set out above, the fact that the **Respondent** registered 13taxi.com.au immediately after the **ACA** announced its intention to auction the 13TAXI Smart Number, suggests that the **Respondent** only registered 13taxi.com.au to disrupt and prevent another person using the 13TAXI **Smartnumber** in a competing business and that the **Respondent** has been aware since the time of registration (or at least from the time that the **Respondent** failed to secure registration of the 13TAXI **Smartnumber**) that it did not have the rights to use the 13TAXI **Smartnumber**.
- 6.106 As such, the **Respondent's** actions are distinguishable from the actions of the **Respondent** in the 13Flowers case, where registration of the domain name was not connected to the **Smartnumber** or the auction process⁶².
- 6.107 Further, in the alternative, and as set out above, the **Respondent** has renewed and sought to maintain its registration of 13taxi.com.au, despite having been aware of the **Complainant's** rights to the **Smartnumber** since at least 14 September 2004 and of its business activities since at the latest 2007.

⁶⁰ See [Bianjade Enterprises Pty Ltd v Leigh Michael Connelly](#) WIPO Case No. DAU2003-0003

⁶¹ **CS25JUL14**, p8.4

⁶² [13Flowers Pty Ltd v Flowers on the Net Pty Ltd](#) (LEADR, 8 April 2005) [7.21]

- 6.108 In 2007⁶³ the **Respondent** made unsubstantiated and unpursued allegations that the **Complainant** was engaging in misleading and deceptive conduct through the 13TAXI service, whilst at the same time using the **Complainant's** name and trade marks through 13taxi.com.au.
- 6.109 This demonstrates the **Respondent's** awareness of the potential for confusion should one service represent that it was related to the other, which the **Respondent** continues to do through its use of the 13TAXI name in 13taxi.com.au.
- 6.110 The **Respondent's** ongoing registration and possession of 13taxi.com.au in these circumstances is being used to redirect web traffic away from the **Complainant** and to disrupt the **Complainant's** business by denying the **Complainant** the right to promote its business using its trade mark.
- 6.111 The **Respondent** is also causing confusion as to which service a consumer is accessing on 13taxi.com.au.
- 6.112 The proliferation of smartphones, which has seen phone and internet use merge, has increased the importance of incorporating a **Smartnumber** in a domain name.
- 6.113 The **Respondent's** continued use of the 13TAXI **Smartnumber** as a domain name therefore disrupts the **Complainant's** business and should be considered to be in bad faith.
- 6.114 auDRP, p4(b)(iv) relates to circumstances where the respondent has used a domain name intentionally to attract, for commercial gain, internet users to a website by creating a likelihood of confusion with the complainant's name or mark as to the source, or affiliation of the website or service on that website⁶⁴.
- 6.115 As set out above, the **Respondent** is aware of the importance of a **Smartnumber** in the taxi industry and aware that it does not have any right to use the 13TAXI **Smartnumber**, name or trade mark.
- 6.116 The **Respondent** has stated in correspondence to the **Complainant** that it has no connection to or affiliation with the 13TAXI service.
- 6.117 The **Respondent** is seeking to attract users to its services through 13taxi.com.au using the 13TAXI brand and is doing so for commercial gain.
- 6.118 When users access 13taxi.com.au which corresponds to the **Complainant's** 13TAXI trade mark and **Smartnumber**, they are redirected towards taxi booking services offered by a competitor to the **Complainant**.
- 6.119 This may lead users to assume that the 13TAXI and 13CABS **Smartnumbers** are interchangeable and therefore to use the **Respondent's** services in preference to those of the **Complainant**.
- 6.120 The **Respondent** has also acknowledged in correspondence⁶⁵, that it is aware of the potential for confusion between the 13TAXI and 13CABS service, but continues to use the 13TAXI brand and trade mark through 13taxi.com.au.
- 6.121 The **Respondent** is seeking to take advantage of the **Complainant's Smartnumber** and registered trade marks by redirecting consumers to its own competing services.
- 6.122 It can be inferred that at the time of registration, the **Respondent** was aware that the 13TAXI **Smartnumber** was to be auctioned and could be used to offer a competitive service to the **Respondent's** 13CABS **Smartnumber**.
- 6.123 The **Respondent's** registration of 13taxi.com.au was therefore closely temporally connected to the 13TAXI **Smartnumber** and the corresponding name.

⁶³ See Annexure 11 to this decision

⁶⁴ CS25JUL14, p8.5

⁶⁵ See Annexure 11 to this decision

- 6.124 As such, the **Respondent's** position is distinguishable from the circumstances faced by the respondent in the 13Flowers case, where registration of the domain name was not connected to the **Smartnumber** or the auction process.
- 6.125 The **Respondent's** conduct is in fact, similar to the actions of the respondent in *Bianjade*⁶⁶, where redirection to a competitor site and service was the basis for a finding of bad faith.
- 6.126 By utilising the **Complainant's Smartnumber** and trade marks to attract business for commercial gain, the Respondent is using 13taxi.com.au in bad faith.
- 6.127 The **Complainant** submits that under any or all of these grounds in **auDRP**, p4(b) the **Respondent** has registered or subsequently used 13taxi.com.au in bad faith within the meaning of **auDRP**, p4(a)(iii)⁶⁷.
- 6.128 Further and in the alternative, the **Complainant** submits that in the circumstances the **Respondent's** registration and ongoing use of 13taxi.com.au must be considered to be in bad faith within the meaning of **auDRP**, p4(a)(iii) even if none of the specific, but non-exhaustive grounds in p4(b) are made out⁶⁸.
- 6.129 The **Respondent** submits at [7.17]-[7.22] below that⁶⁹:
- (a) no other taxi operator pays any fee to the **Complainant**;
 - (b) the **Complainant** does not derive any revenue from the diversion of calls to taxi operators or the provision of booking or taxi cab transport services in its own right; and
 - (c) the **Complainant** derives no revenue from the activation or use of the **Smartnumber** 138294.
- 6.130 Each of these statements is false⁷⁰:
- (a) the **Complainant** derives revenue from telecommunications providers for the routing of each call made to the 13TAXI **Smartnumber**; and
 - (b) the **Complainant** derives additional revenue from taxi operators that request additional services, including connections made to mobile phones.
- 6.131 At [7.41], [7.42] to [7.43] and [7.45] below the **Respondent** refers to the dates at which the **Complainant** obtained its relevant rights and registrations that are relevant to 13taxi.com.au⁷¹.
- 6.132 The **Complainant** notes that the time at which it is required to have rights for the purposes of **auDRP** p4(a)(i) is the time of this **complaint**, not the time that 13taxi.com.au was registered.
- 6.133 At [7.64], [7.74] to [7.78] and [7.89(f)] to [7.89(l)] below the **Respondent** references a July 2002 **IP Australia** examination report, and states that as a result of this report, other traders, itself included, are entitled to use the combination of 13 and the descriptive word TAXI⁷².
- 6.134 Additionally, the **Respondent** submits at [7.89(m)] to [7.89(s)] below that no business has acquired distinctiveness for the term 13TAXI in class 39 services and suggests that the **Complainant's** trademarks are limited to class 38.

⁶⁶ [Bianjade Enterprises Pty Ltd v Leigh Michael Connelly](#) WIPO Case No. DAU2003-0003

⁶⁷ CS25JUL14, p8.6

⁶⁸ CS25JUL14, p8.7

⁶⁹ CS25AUG14, p2.1

⁷⁰ CS25AUG14, p2.2

⁷¹ CS25AUG14, p2.3

⁷² CS25AUG14, p2.4

- 6.135 The July 2002 **IP Australia** examination report was issued prior to the auction of the 13TAXI **Smartnumber**.
- 6.136 In light of the auction, this statement is no longer relevant, as evidenced by **IP Australia's** later acceptance of the **Complainant's** trademarks for the term 13TAXI in 2008 and 2009.
- 6.137 The **Complainant** is entitled to rely on these trade marks under the **auDRP**.
- 6.138 The **Respondent's** claim that the **Complainant's** trade marks are limited to class 38 is also false.
- 6.139 The **Complainant's** trademark 1028382 is also registered in class 39.
- 6.140 That the **Complainant** succeeded where the **Respondent** failed in registering a trademark for the 13TAXI term, accords with the practice of the Registrar of Trade Marks only to register a **Smartnumber** as a trade mark, where the applicant has obtained the right to use the relevant **Smartnumber** from the **ACMA**⁷³.
- 6.141 At [7.82] to [7.84] and [7.89(b)] to [7.89(e)] below the **Respondent** submits that it has rights in 13taxi.com.au and meets the **Domain Name Policy** to hold the 13taxi.com.au⁷⁴.
- 6.142 At [7.82] to [7.84] below the **Respondent** asserts an entitlement to 13taxi.com.au under the "close and substantial connection test" and relies on the *John Kolenda*⁷⁵ decision in this regard.
- 6.143 However, that argument ignores the significance of the number '13' in the 13taxi.com.au.
- 6.144 To make that argument out the **Respondent** would have to be providing goods or services by reference to the **Smartnumber** and Phoneword 13TAXI, which, as discussed in [6.125] above, it is not.
- 6.145 The **Respondent's** reliance on the *John Kolenda* decision and the inference it seeks to draw from that case⁷⁶ is also misconceived and misleading.
- 6.146 The panellist in *John Kolenda* expressly found that the use of a phoneword by someone other than the holder of the phoneword would appear to be 'misleading', in contravention of Trade Practices Act 1974⁷⁷, s52 and therefore found that the respondent in that case did '*not have rights or legitimate interest in the disputed domain name*'.
- 6.147 The **Respondent's** submission in [7.85] to [7.88] below that '13taxi.com.au is an abbreviation of a registered trade mark which the **Respondent** is authorised to use by virtue of the Licence Agreement' misapplies the **Domain Name Policy** which state that:
2. Domain names in the com.au 2LD must be:
- a) an exact match, abbreviation or acronym of the registrant's name or trademark.
- 6.148 The trademark no 883532 is not, on the **Respondent's** own submission, 'the registrant's' (the **Respondent**) name or trademark.
- 6.149 The **Respondent** asserts that this trademark is owned by Taxis Australia and used under licence.
- 6.150 Even if the **Respondent** did own this trademark, the term 13TAXI is not an abbreviation of the words contained in trademark 883532.

⁷³ See [6.38] above, Part 22 of the Trade Marks office Manual of Practice and Procedure, IP Australia, p14.4.

⁷⁴ **CS25AUG14**, p2.5

⁷⁵ [John Kolenda v 1300 Phonewords Pty Ltd](#) WIPO case DAU2009-0001

⁷⁶ See footnote 139 below.

⁷⁷ now Australian Consumer Law, s18

- 6.151 As can be seen from the image in Annexure R7 to this decision, the trade mark contains and protects the words Taxis Australia and the separate phone number 132227 or 13CABS. It does not contain the word "13TAXI".
- 6.152 The **Respondent** cannot completely recast and reorder this trade mark to suit its purposes in this matter by suggesting that the trade mark take on an entirely different form.
- 6.153 At [7.89(a)] and [7.89(b)-7.89(e)] below the **Respondent** submitted that it has legitimate interests in 13taxi.com.au on the basis that it⁷⁸:
- (a) considered the use of 13taxi.com.au in an email to an advertising agency in August 2004; and
 - (b) attempted to register a trade mark for the term 13TAXI between 2002 and 2003.
- 6.154 The **Respondent** submits that these actions continue to give it legitimate rights and in support of this contention cites the decision in [Private Real Estate Pty Limited v Chris Pap](#)⁷⁹.
- 6.155 The **Respondent's** reliance on the decision in *Private Real Estate* is misconceived. In that case Panellist Argy stated clearly that:
- (a) the time to assess legitimate interests is the date of the decision;
 - (b) the respondent in that case had legitimate interests as a result of his current, corresponding business name registration; and
 - (c) that the respondent had provided evidence that he had been undertaking substantive preparations to use the business name since it was first registered.
- 6.156 In contrast, as at the time of this dispute, the **Respondent** does not have and has never had any rights in the name 13TAXI⁸⁰ (has made no substantive preparations to use the name 13TAXI in connection with a bona fide offering of goods or services and last considered using the name 13TAXI in 2004.
- 6.157 To the extent that the **Respondent's** actions in 2004 gave them any rights in the 13taxi.com.au, which the **Complainant** denies, these rights must be considered to have eroded as the **Respondent** failed to exercise them or use the 13TAXI name for more than 10 years⁸¹.
- 6.158 At [7.89(m)] to [7.89(s)] and [7.95] to [7.96] below the **Respondent** submitted that⁸²:
- (a) 'seven different taxi operators ... have used the alphanumeric combination 13TAXI prior to or simultaneously with the Complainant;' and
 - (b) there 'is a widespread desire by other traders to use the phrase 13TAXI, without improper motive.
- 6.159 The **Respondent** has not provided any evidence as to the use or widespread desire to use the 13TAXI term by other operators, other than unsuccessful trade mark applications and business or company names filed or created no later than 2004, the year the 13TAXI **Smartnumber** was auctioned.
- 6.160 Indeed, on the **Respondent's** own statements, there have been no competing applications or activity in relation to the 13TAXI term for almost 10 years.

⁷⁸ CS25AUG14, p2.6

⁷⁹ [Private Real Estate Pty Limited v Chris Papas IAMA Case no. 3665](#), 18 February 2013.

⁸⁰ See paragraphs [6.6] to [6.17] above

⁸¹ [13Flowers Pty Ltd v Flowers on the Net Pty Ltd](#) (LEADR, 8 April 2005) paragraph 7.15 and 7.18.

⁸² CS25AUG14, p2.7

- 6.161 The compelling inference is that other traders have accepted that the rights in the term 13TAXI belong to the **Complainant**, together with the 13TAXI **Smartnumber**.
- 6.162 The **Complainant** is aware of promotion of the 13TAXI term by a number of Taxi operators, but this use is authorised under licences between the **Complainant** and the relevant operators.
- 6.163 To the best of the **Complainant's** knowledge, the only use of the term 13TAXI since 2004 that has not been authorised by the **Complainant** is the **Respondent's** use of the domain name 13taxi.com.au.
- 6.164 At [7.89(v)(3)] below the **Respondent** submits that it has legitimate rights to use the 13TAXI name, including as an unregistered trade mark⁸³.
- 6.165 The **Respondent** has provided no evidence of its use of the 13TAXI name or trademark, other than through the 13taxi.com.au.
- 6.166 Indeed, the content of the website to which the 13taxi.com.au resolves does not even use or refer to the name 13TAXI.
- 6.167 Whilst the **Respondent** sought to register the 13TAXI trade mark, on its own submissions it allowed this application to lapse in January 2004 and has taken no action in regard to this trade mark or the 13TAXI name for more than 10 years.
- 6.168 The **Respondent** has not used or established any reputation in the 13TAXI name other than through its use of 13taxi.com.au to redirect users to its 13CABS services.
- 6.169 It cannot claim that it has rights in the 13TAXI name as an unregistered trade mark.
- 6.170 As noted in the 13FLOWERS decision, the legitimacy and bona fides of a **Respondent's** rights and interests in a domain name *continue to erode over time were they to be (or remain) unexercised*.⁸⁴
- 6.171 After 10 years of holding the 13taxi.com.au for the sole purpose of redirecting users to a service that it markets under a different name, the **Respondent** cannot claim that it now has a legitimate or bona fide right in the name 13TAXI (if it ever had such a right, which the **Complainant** denies).
- 6.172 At [7.89(t)] to [7.89(v)] below, the **Respondent** paraphrases **auDRP**, p4(c)(iii) stating⁸⁵:
- 'the respondent is making a legitimate fair use of the Disputed Domain Name without any intention to misleadingly divert customers from the Complainant or to tarnish the name or trade mark of the Complainant'*.
- 6.173 The **Respondent** has omitted the words 'without intent for commercial gain' from its restatement of **auDRP**, p4(c)(iii).
- 6.174 These words are of crucial importance in the meaning of **auDRP** p4(c)(iii) and its application to this matter.
- 6.175 Even if the **Respondent** is making fair use of 13taxi.com.au, which the **Complainant** denies, the **Respondent** is clearly using 13taxi.com.au with intent for commercial gain by promoting its own services.
- 6.176 Numerous decisions have stated that paragraph 4(c)(iii) does not apply unless the use is *'without intent for commercial gain'*⁸⁶.

⁸³ **CS25AUG14**, p2.8

⁸⁴ [13Flowers Pty Ltd v Flowers on the Net Pty Ltd](#) (LEADR, 8 April 2005) paragraph 7.15; See also paragraph 7.18 to the same effect.

⁸⁵ **CS25AUG14**, p2.9

⁸⁶ [Howard Jarvis Taxpayers Association v. Paul McCauley Case](#) WIPO Case No. D2004-0014; [Mission KwaSizabantu v. Benjamin Rost Case](#) WIPO Case No. D2000-0279; [Legal & General Group Plc v. Image Plus Case](#) WIPO Case No. D2002-1019

- 6.177 At [7.89(v)(8)] and [7.116(b)] to [7.116(c)] below the **Respondent** suggests that the **Complainant's** call connection service is in some way misleading and that⁸⁷:
- (a) the **Complainant** should therefore be estopped as it has not come to this **Panellist** with clean hands; and
 - (b) the **Complainant's** provision of a call connection service is similar to the **Respondent's** use of 13taxi.com.au.
- 6.178 The **Respondent** has no basis on which to claim an estoppel in this proceeding, or to suggest that the **Complainant's** connection service is misleading or in any way comparable to the **Respondent's** use of 13taxi.com.au.
- 6.179 The 13TAXI service does not hold itself out to be anything but a connection service that links callers to a local taxi operator's service.
- 6.180 In the .WAV file provided by the **Respondent**, the **Complainant's** service first states that it is an 'independent call connection service' then links to the services provided by the **Respondent**.
- 6.181 In contrast 13taxi.com.au does not disclose the relationship between the **Respondent** and the 13TAXI brand, nor provide any link to the **Complainant's** 13TAXI service.
- 6.182 It is also significant that the **Respondent** first raised these allegations of misleading conduct in a letter to the **Complainant** on 13 September 2007,⁸⁸ yet has never issued legal proceedings with respect to the 13TAXI service, nor responded to the letter sent to them by the **Complainant** on 17 September 2007⁸⁹.
- 6.183 At [7.89(x)] below, the **Respondent** suggests that it is 'essentially a supplier or distributor of taxi services by reference to the **Complainant's** trademarks⁹⁰.
- 6.184 The **Respondent** seeks to rely on the principles set out in [Okidata Americas, Inc v ASD, Inc](#)⁹¹ (**Okidata**) to suggest that this supplier relationship gives it rights in the disputed domain name.
- 6.185 The **Respondent** has inappropriately paraphrased the second limb of the test in **Okidata**. Stated in full, this limb requires that:
- (the) Respondent must use the site to sell only the trademarked goods; otherwise, it could be using the trademark to bait Internet users and then switch them to other goods.'*
- 6.186 The relevant paragraph in **Okidata** goes on to cite [Nikon, Inc. v. Technilab](#)⁹² as the basis for this proposition and notes that in that case: 'use of Nikon-related domain names to sell Nikon and competitive cameras [was] not a legitimate use'.
- 6.187 In this case, the relevant trade marked service is the 13TAXI call connection and communication service.
- 6.188 The **Respondent** does not sell, advertise or even refer to the 13TAXI service on 13taxi.com.au and is clearly referring users to services other than the 13TAXI service.
- 6.189 Additionally, the **Respondent's** suggestion that the relevant trade marked services in this case are simply generic 'taxi services' undermines the meaning of the test in **Okidata** and ignores the reference to the finding in [Nikon, Inc. v. Technilab](#) that a supplier must only offer Nikon cameras, not simply cameras in general, to have legitimate rights.
- 6.190 At [7.98] the **Respondent** seeks to support the relevance of the decision in the 13Flowers case by⁹³:

⁸⁷ CS25AUG14, p2.10

⁸⁸ See Annexure 11

⁸⁹ See Annexure 12

⁹⁰ CS25AUG14, p2.11

⁹¹ [Okidata Americas, Inc. v. ASD, Inc](#) WIPO Case No. D2001-0903.

⁹² [Nikon, Inc. v. Technilab](#), WIPO Case No. D2000-1774.

- (a) citing what it refers to as 'numerous **UDRP** and **auDRP** decisions'; and
 - (b) providing screen captures of flower businesses that hold **Smartnumbers**.
- 6.191 The **Complainant** notes that the only **auDRP** decision provided by the **Respondent** was the 13Flowers decision itself.
- 6.192 The **UDRP** decisions refer only to the use of phone words in the USA, and in each of the **UDRP** decisions cited, the relevant domain name was transferred to the holder of the corresponding phone number.
- 6.193 The **Complainant** also notes that the screen captures provided by the **Respondent** show only one florist business that refers to itself or trades by reference to a **Smartnumber**.
- 6.194 This supports the **Complainant's** submission that **Smartnumbers** are of greater significance in the Taxi industry.
- 6.195 Both the **Respondent** and Silver Top Taxi Service Ltd, which the **Respondent** identified in its submissions as its 'chief competitor', undertake extensive advertising around the 13CABS and 131008 numbers.
- 6.196 In any case, the **Respondent** has not done anything to displace the **Complainant's** submission that the term 13TAXI has a specific meaning⁹⁴ in the taxi industry and cannot mean anything other than a **Smartnumber**, in contrast to the position in 13FLOWERS where the **Panellist** accepted that 'the 13 can be comparatively meaningless or have other descriptive or commercially significant meanings'⁹⁵.
- 6.197 The **Respondent's** own actions in registering the 13taxi.com.au two days after the auction of the 13TAXI **Smartnumber** was announced, provide a compelling inference that the registration of 13taxi.com.au was connected to the **Smartnumber** and that **Smartnumbers** are of great significance in the Taxi industry
- 6.198 At [7.103] below the **Respondent** submits that 'there is no basis for a finding that the **Respondent** registered 13taxi.com.au in bad faith'⁹⁶.
- 6.199 The **Respondent** has omitted the words 'or use' from the language of **auDRP**, p4(b).
- 6.200 These words are of crucial importance as the **Complainant** has submitted that both the **Respondent's** registration and its subsequent use was in bad faith.
- 6.201 Even if the **Respondent's** initial registration of 13taxi.com.au was in good faith, which the **Complainant** denies, its ongoing use of 13taxi.com.au to redirect users to its own service is in bad faith.
- 7. Respondent's Submissions**
- 7.1 On or about 14 September 2004, the **Complainant** acquired the rights of use ("ROU") to the **Smartnumber** 138294 (13TAXI) at an auction run by the ACA, the precursor to **ACMA**.
- 7.2 The **Respondent** agrees that the price paid for the ROU to the **Smartnumber** 138294 (13TAXI) was \$1,005,001.00⁹⁷.
- 7.3 Under **ACMA's** terms and conditions, a **Smartnumber** must be activated within three years of payment of the winning bid amount.
- 7.4 Activation means that if someone was to call the number they would be connected through.

⁹³ **CS25AUG14**, p2.12

⁹⁴ See [6.61(e)] above

⁹⁵ [13Flowers Pty Ltd v Flowers on the Net Pty Ltd](#) (LEADR, 8 April 2005), paragraph 7.12(e) as accepted in paragraph 7.13

⁹⁶ **CS25AUG14**, p2.1

⁹⁷ **RS20AUG14**, p6

- 7.5 Failure to activate the number in time will result in the automatic loss of the **ROU** for the **Smartnumber**.
- 7.6 A printout from **ACMA's** website setting out the activation timeframe is set out at **Annexure R1** to this decision⁹⁸.
- 7.7 After acquiring the **Smartnumber** 138294 (13TAXI), the **Complainant** did not activate the number for several years.
- 7.8 It was only in 2007, as the three year deadline approached, that the **Complainant** sought to activate the **Smartnumber**.
- 7.9 This is supported by the absence of any evidence of use prior to 2007 in the **complaint**⁹⁹.
- 7.10 Annexure R2 to this decision sets out searches from the Wayback Machine for the websites 13taxi.net and 13taxi.net.au with the first capture being on 30 October 2007.
- 7.11 The capture includes a copyright notice "Copyright 2007".
- 7.12 The **Respondent** notes that its solicitors wrote to the **Complainant** on 13 September 2007¹⁰⁰ shortly after the **Smartnumber** was activated¹⁰¹.
- 7.13 After the **Smartnumber** 138294 was activated, the **Complainant** began to divert calls to the **Smartnumber** to local taxi operators including the **Respondent**, the **Respondent's** chief competitor Silver Top Taxi Service Ltd and other local taxi operators.
- 7.14 When calls are diverted, the caller simply books a taxi through the **Respondent**, Silver Top or another taxi operator and the taxi cab transport service is provided by that third party.
- 7.15 The **Complainant** does not and never has provided taxi booking or taxi cab transport services.
- 7.16 It simply diverts calls to unrelated businesses¹⁰².
- 7.17 The **Respondent** regularly receives calls which are diverted from the **Smartnumber** 138294 (13TAXI) to the 13CABS phone line utilised by the **Respondent**.
- 7.18 The **Respondent** does not pay any fee to the **Complainant** for these diverted calls.
- 7.19 The **Respondent** understands that no other taxi operator pays any fee to the **Complainant** for the diversion of business from the **Smartnumber** 138294 (13TAXI).
- 7.20 The **Respondent** is unable to differentiate between calls which are made to the 13CABS phone line and calls which are diverted from the 13TAXI **Smartnumber**¹⁰³.
- 7.21 Accordingly, the **Complainant** does not derive any revenue from the diversion of calls to taxi operators or the provision of booking or taxi cab transport services in its own right¹⁰⁴.
- 7.22 Given that the **Complainant** derives no revenue from the activation or use of the **Smartnumber** 138294, this begs the question why the **Complainant** spent over \$1 million to acquire the **Smartnumber**.
- 7.23 The **Respondent** understands that the **Complainant's** business model is reliant on building up equity in the **Smartnumber** 138294 and then selling or licensing the **Smartnumber** to the highest bidder in the taxi industry.

⁹⁸ **RS20AUG14**, p7

⁹⁹ eg [6.17(a)] above

¹⁰⁰ Annexure 11 to this decision

¹⁰¹ **RS20AUG14**, p8

¹⁰² **RS20AUG14**, p9

¹⁰³ **RS20AUG14**, p10

¹⁰⁴ **RS20AUG14**, p11

- 7.24 The **Respondent** believes that by diverting the **Smartnumber** to the **Respondent**, Silver Top and other taxi operators, the **Complainant** aims to build up an awareness of the **Smartnumber** 138294 (13TAXI) by consumers.
- 7.25 Once the **Smartnumber** becomes well known among consumers for the provision of taxi cab services, the **Complainant** will solicit offers from third party taxi operators to buy or license the **Smartnumber**.
- 7.26 The **Complainant** hopes to profit from this endeavour but given the importance of applications on smart phones to the taxi business of the future, it may not do so¹⁰⁵.
- 7.27 The **Respondent** does not wish to assist the **Complainant** to build brand equity in the **Smartnumber** 138294 (13TAXI) by servicing calls which are diverted from that number to the 13CABS phone line.
- 7.28 This is because the **Smartnumber** will ultimately be auctioned to the highest bidder.
- 7.29 For this reason, on 13 September 2007, Pigott Stinson Lawyers wrote to the **Complainant** on behalf of the **Respondent**, Taxis Combined Services Pty Ltd (TCS) and Arrow Taxi Services Pty Ltd (Arrow)¹⁰⁶.
- 7.30 In the letter, the **Respondent**, TCS and Arrow objected to the unauthorised diversion of calls from the **Smartnumber** 138294 (13TAXI) to them and alleged that the unauthorised diversion amounted to a contravention of *Trade Practices Act 1974* (Cth), s52.¹⁰⁷
- 7.31 By a letter dated 17 September 2007, the **Complainant's** lawyers responded to the **Respondent's** allegations¹⁰⁸.
- 7.32 Amongst other things, the **Complainant**, through its lawyers, stated that neither its "website, nor its service, contains any representation that is misleading or deceptive or likely to mislead or deceive consumers" and that they did not contain a representation that either the **Complainant** or its service had the sponsorship or approval of the **Respondent**, TCS and Arrow or that it was otherwise affiliated with the **Respondent**, TCS and Arrow¹⁰⁹.
- 7.33 When the **Respondent** receives a phone call, it cannot determine whether the call emanates from the 13CABS phone line or whether it emanates from the 13TAXI phone line.
- 7.34 By virtue of the unauthorised diversion of calls to the 13CABS phone line, the **Respondent** is in an invidious position.
- 7.35 If the **Respondent** refuses to service calls to the 13CABS phone line, it will be refusing to service direct callers to the 13CABS phone line and will damage the 13CABS brand.
- 7.36 However, by servicing all calls to the 13CABS phone line, the **Respondent** will be servicing callers who have been diverted from the 13TAXI **Smartnumber** and consequently will be assisting to build brand equity in a **Smartnumber** which could then be sold to its competitors.
- 7.37 The **Respondent** has never consented to the diversion of calls and has no power to block the calls.
- 7.38 In the **complaint**, the **Complainant** refers to "its suppliers"¹¹⁰.
- 7.39 This is actually a reference to unrelated taxi operators to whom calls are diverted¹¹¹.

¹⁰⁵ **RS20AUG14**, p12

¹⁰⁶ Annexure 11

¹⁰⁷ **RS20AUG14**, p13

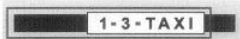
¹⁰⁸ Annexure 12

¹⁰⁹ **RS20AUG14**, p14

¹¹⁰ eg [6.102] above

¹¹¹ **RS20AUG14**, p15

- 7.40 The **Respondent** accepts that the **Complainant** is the registrant of the following trade marks in respect of the limited range of services specified at Annexure 8¹¹².

Australian Trade Mark	Trade Mark	Classes	Priority Date
1028382		38 and 39	5 November 2004
1028383	13TAXI	38	5 November 2004

(Complainant's Trade Marks)

- 7.41 The **Respondent** concedes that 13taxi.com.au, which was registered by the **Respondent** on 3 October 2003, is identical to or confusingly similar to Australian trade mark no. 1028383 13TAXI which was subsequently registered by the **Complainant**¹¹³.
- 7.42 The **Respondent** accepts that the **Complainant** was incorporated on 18 June 2004 under the name Managed Performance Pty Ltd and that on 10 May 2005, the **Complainant** changed its name to "13 Taxi (Australia) Pty Ltd".
- 7.43 The **Respondent** accepts that 13taxi.com.au, which was registered by the **Respondent** on 3 October 2003, is similar to the **Complainant's** company name which was adopted on 10 May 2005¹¹⁴.
- 7.44 In accordance with the reasoning of the majority in [Inbound Telecommunications](#)¹¹⁵ and Panellist Swinson in [Multi-National Concepts Pty Ltd v. 1300 Directory Pty Ltd](#)¹¹⁶, the **Respondent** does not concede that a **Smartnumber** is a name in the absence of demonstrated reputation or goodwill¹¹⁷.
- 7.45 The **Respondent** notes that Australian trade mark application no. 1028383 13TAXI proceeded to acceptance under the provisions of *Trade Marks Act 1995* (Cth), s41(5) in respect of a limited range of services in class 38, on 3 September 2009.
- 7.46 The **Respondent** does not accept that the **Smartnumber** 138294 (or 13TAXI) had any secondary meaning or reputation for any services before 3 September 2009¹¹⁸.
- 7.47 The **Complainant** submits that the **Respondent** has no rights or legitimate interests in 13taxi.com.au¹¹⁹.
- 7.48 The **Respondent** submits that at the time it registered 13taxi.com.au on 3 October 2003, it had rights to and a legitimate interest in 13taxi.com.au.
- 7.49 The **Respondent** continued to have a right to and legitimate interest in 13taxi.com.au after the **Complainant** acquired the **ROU** to the **Smartnumber** 138294 (13TAXI) on 14 September 2004¹²⁰.
- 7.50 On 24 October 1989, the **Respondent** was incorporated.
- 7.51 The **Respondent** is a 20% shareholder in Taxis Australia Pty Ltd ACN 055 008 636 (**Taxis Australia**) and shares common officers with **Taxis Australia**.
- 7.52 Cabcharge Australia Limited ACN 001 958 390 is the sole shareholder of the **Respondent** and the ultimate holding company of **Taxis Australia**¹²¹.

¹¹² RS20AUG14, p16

¹¹³ RS20AUG14, p17

¹¹⁴ RS20AUG14, p18

¹¹⁵ [Inbound Telecommunications Pty Ltd, Phonename Marketing Australia Pty Ltd v. 1300 Directory Pty Ltd, Demetrio Padilla](#), WIPO Case No. DAU2009-0018

¹¹⁶ [Multi-National Concepts Pty Ltd v. 1300 Directory Pty Ltd](#), WIPO Case No. DAU2009-0002


¹¹⁷ RS20AUG14, p19

¹¹⁸ RS20AUG14, p20

¹¹⁹ RS20AUG14, p21

¹²⁰ RS20AUG14, p22

- 7.53 **Taxis Australia** was the first company in Australia to develop and market a national taxi cab booking concept by introducing the national telephone number 132227 (13CABS), and now exclusively operates as a representative of nineteen individual taxi cab companies around Australia, including over 7,500 individual taxi cabs¹²².
- 7.54 In 2001 and 2002, **Taxis Australia** and its related bodies corporate (including the **Respondent**) intended to promote their goods and services by reference to trading indicia which included the trade mark "13TAXI".
- 7.55 This was in addition to the promotion of the national telephone number 132227 (13CABS).¹²³
- 7.56 In 2001 and 2002, **Taxis Australia** applied for the registration of the following Australian trade marks.
- 7.57 Printouts from Australian Trade Marks Online Search System (**ATMOSS**) are set out at **Annexure R7**¹²⁴.

Australian Trade Mark Application	Trade Mark	Classes	Filing Date	Status
883532		39	24 July 2001	Registered
900411	13TAXI	12, 39	16 January 2002	Lapsing advertised on 29 January 2004
900410	13CABS	12, 39	16 January 2002	Registered

(TA Marks)

- 7.58 **Taxis Australia** filed the **TA Marks** for use in association with the business of **Taxis Australia** and its related bodies corporate (including the **Respondent**).
- 7.59 At all relevant times, the **Respondent** was licensed to use the **TA Marks** in association with its business¹²⁵.
- 7.60 After filing the **TA Marks**, **Taxis Australia** and the **Respondent** continued to work toward the registration of each of the **TA Marks** and the promotion of their businesses by reference to these trade marks¹²⁶.
- 7.61 On 6 May 2002, **IP Australia** issued an adverse examination report in respect of Australian trade mark application no. 900411 13TAXI ("**13TAXI Trade Mark**").
- 7.62 In the examination report dated 6 May 2002¹²⁷, the examiner stated that¹²⁸

¹²¹ RS20AUG14, p23

¹²² RS20AUG14, p24

¹²³ RS20AUG14, p25

¹²⁴ RS20AUG14, p26

¹²⁵ RS20AUG14, p27

¹²⁶ RS20AUG14, p28

¹²⁷ Annexure R8

¹²⁸ RS20AUG14, p29

Your trade mark is not capable of distinguishing your goods/services because it consists of the descriptive word TAXI and the numeral 13.

As such, the main feature of your trade mark is the numeral 13.

Numerals are commonly used to indicate amongst other things, size, quantity or quality.

Other traders are equally entitled to use the numeral you have applied for to indicate their similar goods and or service.

Although your trade mark contains other material, namely the descriptive word TAXI, this does not make the trade mark, as a whole, capable of distinguishing.

- 7.63 Notwithstanding, **IP Australia's** initial refusal to accept the 13TAXI Trade Mark for registration, it was the intention of both **Taxis Australia** and the **Respondent** to continue pursuing registration of the 13TAXI Trade Mark so that it could be used in association with their respective businesses¹²⁹.
- 7.64 On 24 May 2002, the solicitors for **Taxis Australia** filed submissions arguing that the 13TAXI Trade Mark was capable of distinguishing its services from those of other traders¹³⁰.
- 7.65 On 15 July 2002, **IP Australia** issued a second examination report in respect of the 13TAXI Trade Mark.
- 7.66 In the examination report dated 15 July 2002¹³¹, the examiner stated, amongst other things, that¹³²:

I do not agree that the mark is prima facie capable of distinguishing the services of the applicant from those of other traders in the market place...

As the trade mark under examination is made up of the combination of the descriptive word TAXI and the numeral 13 and the services covered by this application include taxi services, the combination has a specific meaning in relation to the services claimed.

Other traders offering TAXI services are likely to need to use this combination...

*It has also become common place for service providers to adopt a phone number beginning with the numerals 13 and followed by a descriptive word that can be spelled out on the buttons of a telephone. **Other traders with a similar phone number are entitled to use these combinations.** (emphasis added)*

- 7.67 Notwithstanding, the second examination report, **Taxis Australia** and its related bodies corporate continued to pursue the registration of the 13TAXI Trade Mark.
- 7.68 On 6 August 2003, 3 October 2003 and 6 November 2003, **Taxis Australia** obtained extensions of time to respond to the examiner's objections.
- 7.69 On 27 November 2003, Darren Borg of the **Respondent** sent an email¹³³ to Bruno Macri, the solicitor for **Taxis Australia** and the **Respondent**.
- 7.70 In the email, Darren Borg noted that **Respondent** had acquired the domain names 13taxi.com and 13taxi.com.au but that "there is no real market presence yet as the 13 number representing 13TAXI has not yet become available".
- 7.71 It is clear that the **Respondent** was working toward a business plan which involved the 13TAXI Trade Mark¹³⁴.

¹²⁹ **RS20AUG14**, p30

¹³⁰ **RS20AUG14**, p31

¹³¹ Annexure R9

¹³² **RS20AUG14**, p32

¹³³ Annexure R10

¹³⁴ **RS20AUG14**, p33

- 7.72 At the end of 2003, the **Respondent** had a bona fide intention to promote its business by reference to trading indicia including the term "13TAXI".
- 7.73 However, at this time, the **Respondent** was unable to launch significant marketing activities because the **Smartnumber** 138294 (13TAXI) was not yet available and because there was no guarantee that the **Respondent** would have exclusive use of the 13TAXI Trade Mark (noting the examiner's comments in the examination reports dated 6 May 2002 and 15 July 2002)¹³⁵.
- 7.74 On 29 January 2004, the application for the 13TAXI Trade Mark lapsed after **Taxis Australia** failed to overcome the examiner's objections.
- 7.75 However, this did not amount to an abandonment of the 13TAXI Trade Mark by **Taxis Australia** and the **Respondent**.
- 7.76 In particular, on 6 May and 15 July 2002, **IP Australia** had clearly and unambiguously stated that other traders should be able to use alphanumeric combination "13TAXI" in association with their businesses.
- 7.77 Accordingly, it is clear that **IP Australia** considered that all traders had legitimate rights to use the phrase "13TAXI" to promote their taxi services, regardless of whether they were the holder of the **Smartnumber** 138294 (13TAXI).
- 7.78 As set out in the examination report dated 15 July 2002, this included "*other traders with a similar phone number*"¹³⁶.
- 7.79 In or about mid-September 2004, the **Respondent** bid unsuccessfully for the **Smartnumber** 138294 (13TAXI).
- 7.80 However, the **Respondent** continued to promote its business by reference to a range of trade indicia, including the 13CABS Trade Mark and Australian trade mark application no. 883532 (set out above)¹³⁷.
- 7.81 The **Complainant** submits that the **Respondent** has no entitlement to use 13taxi.com.au under the terms of the **Domain Name Policy**¹³⁸.
- 7.82 At the time of registering 13taxi.com.au and since that date, the **Respondent** has had a clear entitlement to be recorded as the registrant under the "close and substantial connection" test.
- 7.83 In particular, at all relevant times, the **Respondent** has provided taxi booking and taxi cab transport services.
- 7.84 Even in the absence of any use of the numeric indicia, this use alone is sufficient for the purposes of the close and substantial connection test^{139,140}.

¹³⁵ **RS20AUG14**, p34

¹³⁶ **RS20AUG14**, p35

¹³⁷ **RS20AUG14**, p36

¹³⁸ **RS20AUG14**, p37

¹³⁹ See for example [John Kolenda v 1300 Phonewords Pty Ltd](#), WIPO Case No. DAU2009-0001 where Panellist Rothnie considered the respondent's right and legitimate interest in the domain name 1300homeloan.com.au in a context where the respondent no longer held the ROU to the Smartnumber 1300HOMELOAN. Panellist Rothnie examined the right and legitimate interest of the respondent to continue holding the disputed domain name pursuant to the eligibility criteria, including the "close and substantial connection" test and stated that "the licensing of phonewords would not satisfy this requirement as the product or service being supplied by the respondent is the disputed domain name or phoneword and not home loans or information about home loans." It can be inferred from this finding that the provision of home loans would have rendered the respondent eligible to continue holding the disputed domain name 1300homeloan.com.au. Likewise, the provision of taxi services by the Respondent is sufficient to meet the close and substantial connection test. See also [13 Flowers Pty Ltd \(ACN 111 323 061\) v Flowers On The Net Pty Ltd \(ACN 105 311 297\)](#), LEADR Case No. auDRP 03/2005 at 7.12(e) (adopted by Panellist McNally at 7.13 – 7.14).

- 7.85 In the alternative, 13taxi.com.au is an abbreviation of the alphanumeric elements of Australian trade mark no. 883532 (depicted above) within the meaning of Schedule C of the **Domain Name Policy**, p2(a).
- 7.86 At all relevant times since 24 July 2001, the **Respondent** has been licensed to use the logo embodied in Australian trade mark no. 883532.
- 7.87 The licence arises by virtue (**Licence Agreement**).
- 7.88 Under the terms of the **Licence Agreement**, the **Respondent** is licensed to use the trade names and trade marks of **Taxis Australia**. A copy of the cover page and recitals to the **Licence Agreement** are set out at **Annexure R11** to this decision. The terms of the **Licence Agreement** are otherwise confidential¹⁴¹.
- 7.89 The **Respondent** submits that at the time of its registration of 13taxi.com.au, and since that date, the **Respondent** has had rights to and a legitimate interest in 13taxi.com.au for the following reasons¹⁴²:
- (a) before notice of the subject matter of this dispute, the **Respondent** and its related body corporate Taxis Australia, made bona fide preparations to use 13taxi.com.au and the 13TAXI Trade Mark in association with their taxi businesses. In particular:
 - (1) by filing Australian trade mark application no. 900411 "13TAXI" on 16 January 2002 and prosecuting the 13Taxi Trade Mark application until December 2003.
 - (2) The application ultimately lapsed on 29 January 2004 after the **Respondent** had incurred significant legal costs in seeking to overcome the examiner's objections.
 - (3) **Annexure R12** sets out an extract from the file management system of the **Respondent's** solicitors showing that the **Respondent** was the client ultimately responsible for the payment of costs associated with the application for the 13TAXI Trade Mark;
 - (4) on 3 October 2003, the **Respondent** sought registration of the domain name 13taxi.com (in addition to 13taxi.com.au). A Who Is search for the domain name is set out at **Annexure R13**;
 - (5) on 20 August 2004, the **Respondent** sought advice from Ian Hickey of advertising agency, "HSJ" in relation to the proposed rebranding of the **Respondent's** services. Amongst other things, the **Respondent** was considering the design of marketing collateral and was considering the use of the domain names 13taxi.com and 13taxi.com.au (amongst others) on its website, letterhead and cars.
 - (6) A copy of an email from Mr Andrew Skelton of the **Respondent** to Mr Ian Hickey of HSJ is set out at **Annexure R14**.
 - (b) at all relevant times since 13taxi.com.au was registered, the **Respondent** has met the **Domain Name Policy** to hold 13taxi.com.au¹⁴³.
 - (c) 13taxi.com.au is an abbreviation of a registered trade mark which the **Respondent** is authorised to use by virtue of the **Licence Agreement**
 - (d) In [*Private Real Estate Pty Limited \[ACN 154 253 924\] v. Chris Papas*](#), Panellist Argy found that the respondent had rights to and a legitimate interest in a disputed domain name in circumstances where the disputed domain name was an abbreviation of a business name registered by the respondent.

¹⁴⁰ **RS20AUG14**, p38

¹⁴¹ **RS20AUG14**, p39

¹⁴² **RS20AUG14**, p40

¹⁴³ see [7.81]- [7.88]

- (e) **Panellist** Argy was satisfied that the respondent had a legitimate interest notwithstanding that the disputed domain name did not resolve to any website, there was no evidence that 13taxi.com.au was being used as an email domain and there had been an eleven year "gestation period"¹⁴⁴.
- (f) The **Respondent's** searches of the Australian trade mark register revealed that no less than five other taxi operators sought registration of the trade mark 13TAXI (or variants thereof) between 16 January 2002 and 19 November 2004¹⁴⁵ and other parties unrelated to the **Complainant** have also registered and used business and company names incorporating the term "13TAXI"¹⁴⁶.
- (g) It would be conspiratorial to suggest that each of these parties has sought to obtain these rights to undermine the **Complainant's** business.
- (h) The widespread use is clearly evidence of the bona fide intention of other traders to use common trade indicia in respect of their businesses.
- (i) The **Complainant** has five lapsed trade mark applications which include the term 13TAXI (or variants thereof)¹⁴⁷ and its only word mark is registered in respect of a very narrow range of services in class 38.
- (j) This also supports the inference that the alphanumeric combination 13TAXI is common promotional language which **IP Australia** has deemed should be available to all traders.
- (k) The **Complainant** could not obtain a trade mark registration for class 39 services as it does not provide any taxi services.
- (l) It could not show **IP Australia** that it has acquired any reputation in the **Smartnumber** 138294 (13TAXI) as a trade mark for "taxi services" to achieve registration under section 41(5) of the *Trade Marks Act 1995 (Cth)*.
- (m) It would be an absurd situation if seven different taxi operators who have used the alphanumeric combination 13TAXI prior to or simultaneously with the **Complainant**¹⁴⁸ can be forced to abandon their use solely due to the **Complainant's** subsequent acquisition of the **Smartnumber** 138294 (13TAXI).
- (n) The **Complainant** is seeking to use its belated acquisition of the **Smartnumber** 138294 (13TAXI) to corner the market for all related IP.
- (o) It also seeks to corner the market when its registration is clearly not for providing taxi services.
- (p) To put it clearly it is inappropriate to allege that a business that provides taxi services is behaving inappropriately when the **Complainant** only has a trade mark registration for "*The transmission of commercial and business information through the establishment of a telephone network; providing communication links between customers and taxi firms.*"
- (q) Arguably causing a person that rings the **Smartnumber** 138294 (13TAXI) to contract with the **Respondent** to provide a taxi service is really not even that.
- (r) As **IP Australia** has recognised, any business is entitled to carry on business in Australia by reference to the term "13TAXI" unless a business acquires distinctiveness.
- (s) This clearly has yet to happen in Australia with the "13TAXI" trade mark for class 39 services.

¹⁴⁴ [Private Real Estate Pty Limited \[ACN 154 253 924\] v. Chris Papas](#) [2013] AUDND 8 (18 February 2013)

¹⁴⁵ Annexure R15

¹⁴⁶ Annexure R16

¹⁴⁷ Annexure R17

¹⁴⁸ Being the **Respondent** and the other traders set out at Annexures R12 and R13

- (t) the **Respondent** is making a legitimate fair use of 13taxi.com.au without any intention to misleadingly divert customers from the **Complainant** or to tarnish the name or trade mark of the **Complainant**.
- (u) the **Respondent** submits that the requirement of "legitimate non-commercial or fair use of the domain name" is disjunctive and accordingly, it does not matter that 13taxi.com.au resolves to a commercial website, provided that the use is still "fair use".
- (v) the **Respondent** submits that it has engaged in fair use because:
 - (1) since at least 24 July 2001, the **Respondent** has been licensed to use the logo embodied in Australian registered trade mark no. 883532.
 - (2) The two largest alphanumeric elements of the trade mark are the word "Taxis" and the number "13".
 - (3) Accordingly, 13taxi.com.au is comprised of elements of trading indicia which the **Respondent** is authorised to use;
 - (4) at all relevant times between 16 January 2002 and 29 January 2004, the **Respondent** was licensed to use the 13TAXI Trade Mark the subject of the Australian trade mark application filed by **Taxis Australia** and since that time has had the right to use the unregistered trade mark 13TAXI;
 - (5) at all relevant times since 13taxi.com.au was registered, the **Respondent** has conducted a business booking and providing taxi cab transport services in Australia;
 - (6) 13taxi.com.au resolves to a website which offers the services referred to in the domain name, namely taxis.
 - (7) As noted in the 13 Flowers case, the 13 prefix can be "comparatively meaningless or have other descriptive or commercially significant meanings";
 - (8) the **Complainant** ought be estopped from defending its diversion of the **Smartnumber** 138294 (13TAXI) to the **Respondent** as commercially legitimate practice while at the same time portraying the **Respondent's** redirection of 13taxi.com.au as in some way misleading.
- (w) The **Complainant** has not come to this **Panellist** with clean hands in this regard; and there have been no instances of consumer confusion based on the **Respondent's** use of 13taxi.com.au.
- (x) by virtue of the **Complainant's** diversion of the **Smartnumber** 138294 (13TAXI) to the 13CABS phone line, the **Respondent** is essentially a supplier or distributor of taxi services by reference to the **Complainant's** Trade Marks.

7.90 The circumstances in which a distributor has rights to and a legitimate interest in a domain name are set out in [Okidata Americas, Inc. v. ASD, Inc.](#)¹⁴⁹ ("**Okidata**"). and include that the **Respondent** must actually be offering the services at issue (in this case taxi services), the **Respondent** must use the site to sell only the trade marked services (in this case, the **Respondent** only provides taxi services) and the **Respondent** must not try to corner the market in all domain names reflecting the trade mark (which the **Respondent** has not done in this case).

7.91 The **Okidata** principle also extends to apply to resellers who do not have a contractual relationship with the trade mark owner.¹⁵⁰

¹⁴⁹ [Okidata Americas, Inc. v. ASD, Inc.](#), WIPO Case No. D2001-0903

¹⁵⁰ e.g., [DaimlerChrysler A.G. v. Donald Drummonds](#), WIPO Case No. D2001-0160; [Dr. Ing. h.c. F. Porsche AG v. Del Fabbro Laurent](#), WIPO Case No. D2004-0481

- 7.92 The fourth limb from **Oki Data**, namely that the site must accurately disclose the registrant's relationship with the trade mark owner was discounted in [Topfield Co. Ltd v. Jai Kemp and Digital Products Group Pty Ltd](#)¹⁵¹ ("**Topfield**") where the Panel stated that it was *not convinced that the Oki Data criteria should be accepted verbatim as authoritative under the Policy, especially the requirement that there be disclosure of the registrant's relationship with the trademark owner. Here the active websites to which the domain names led did not falsely suggest that the registrant is the trademark owner nor that the website is the official website of the trademark owner. This Panel does not consider that, under these circumstances, any such disclosure is required in order to establish legitimacy.*
- 7.93 In the circumstances, the **Respondent** submits that it is in essence a reseller or distributor of taxi services by reference to the **Complainant's** Trade Marks.
- 7.94 The **Respondent's** use of 13taxi.com.au is consistent with the **Oki Data** principle, as applied in **Topfield** and accordingly, the **Respondent** has rights to and a legitimate interest in 13taxi.com.au.
- 7.95 The **Complainant** suggests¹⁵² that the **Respondent** cannot have any legitimate interest in 13taxi.com.au in circumstances where it does not have the **ROU** to the **Smartnumber** 138294 (13TAXI).
- 7.96 However, this ignores the findings of **IP Australia** as well as the widespread desire by other traders to use the phrase 13TAXI, without improper motive.
- 7.97 The **Complainant** has assumed that having a registered trade mark is all that matters in **auDRP** cases, but this is clearly not the case¹⁵³.
- 7.98 The **Complainant** also asserts that the 13Flowers decision is distinguishable because it relates to "an industry where **Smartnumbers** and Phoneword[s] are less significant than in the taxi booking industry".
- 7.99 There is simply no basis for this assertion and it is contradicted by the numerous **UDRP** and **auDRP** decisions related to **Smartnumbers** in the floristry industry including the domain names [www.1800iflowers.com](#)¹⁵⁴, [www.800-flowers.com](#),¹⁵⁵ [1800flowers.org](#),¹⁵⁶ [www.180flowers.com](#) and [www.18000flower.com](#)¹⁵⁷, and [13flowers.com.au](#).¹⁵⁸
- 7.100 Google searches also suggest that there are numerous florists operating in Australia by reference to **Smartnumbers** such as 1300FLORIST, 1300FLOWERS, 1300ROSESONLY and 1300FASTFLOWERS¹⁵⁹.
- 7.101 The **Complainant** has established no basis upon which Panellist McNally fell into error nor any legitimate reason that the Panel should depart from the 13Flowers decision in this case.¹⁶⁰
- 7.102 The **Complainant** submits that the **Respondent's** actions can be found to be in bad faith under **auDRP** p4(b)(ii), (iii) or (iv)¹⁶¹.
- 7.103 The **Respondent** submits that there is no basis for a finding that the **Respondent** registered 13taxi.com.au in bad faith (including under **auDRP** p4(b)(ii) and (iii)).

¹⁵¹ [Topfield Co. Ltd v. Jai Kemp and Digital Products Group Pty Ltd, t/a Topfield Australia, formerly Paige Communications Pty Ltd](#), WIPO Case No. DAU2008-0002

¹⁵² See [6.84] above

¹⁵³ **RS20AUG14**, p41

¹⁵⁴ [1-800-Flowers.com, Inc v. Megan Baltimore](#), WIPO Case No. D2012-0270

¹⁵⁵ [Fresh Intellectual Properties, Inc. v. 800Network.com](#), Inc., WIPO Case D2005-0061

¹⁵⁶ [1-800-Flowers.com, Inc. v. Domain Admin, Abadaba S.A.](#), WIPO Case No. D2009-0325

¹⁵⁷ [1 800 Flowers.com, Inc. Fresh Intellectual Properties, Inc., Fannie May Confections, Inc., v. G Design](#), WIPO Case No. D2006 0977

¹⁵⁸ [13 Flowers Pty Ltd \(ACN 111 323 061\) v Flowers On The Net Pty Ltd \(ACN 105 311 297\)](#),

LEADR Case No. auDRP 03/2005

¹⁵⁹ Annexure R18

¹⁶⁰ **RS20AUG14**, p42

¹⁶¹ **RS20AUG14**, p43

- 7.104 In particular, the **Respondent** registered 13taxi.com.au on 3 October 2003, being 9 months prior to the incorporation of the **Complainant**, 12 months prior to the filing of the **Complainant's** Trade Marks and 19 months prior to the **Complainant** adopting the company name "13 Taxi (Australia) Pty Ltd"¹⁶².
- 7.105 Given that the **Complainant** did not exist at the time 13taxi.com.au was registered, the **Respondent** cannot have had any intention to disrupt the business of the **Complainant** or any other person and cannot have sought to prevent the **Complainant** from reflecting its name or trade marks in a corresponding domain name.
- 7.106 The **Complainant** has also asserted that the **Respondent** registered 13taxi.com.au "immediately after the **ACA** announced its intention to auction the 13TAXI **Smartnumber**" and that this "suggests that the **Respondent** only registered 13taxi.com.au to disrupt and prevent another person using the 13TAXI **Smartnumber** in a competing business".
- 7.107 As set out at [7.54] to [7.74] above, the decision to register 13taxi.com.au was part of an extensive process which began in 2001, to adopt the 13TAXI Trade Mark as part of the **Respondent's** trade indicia.
- 7.108 There is no basis for the suggestion that the **Respondent** registered 13taxi.com.au after the **ACA's** announcement in order to disrupt the business of the successful bidder for the **Smartnumber** 138294 (13TAXI)¹⁶³.
- 7.109 There has been no **auDRP** case which has held a renewal of a domain name to be a "registration" for the purposes **auDRP**, p4(b)(ii) and (iii)¹⁶⁴.
- 7.110 The **Respondent** submits that there would be no basis for such a finding as other auDA policies clearly delineate between registration and renewal¹⁶⁵¹⁶⁶.
- 7.111 The **Complainant** is the registrant of the domain names 13taxi.net and 13taxi.net.au.
- 7.112 The **Respondent's** registration and use of 13taxi.com.au in no way prevents the **Complainant** from reflecting its name in a domain name.
- 7.113 If the **Complainant** was serious in its desire to operate a business on the internet, it would have a more developed website that offered services able to be purchased by a consumer rather than the single page located on the internet with a 2007 copyright notice.
- 7.114 Put simply the **Complainant** does not even properly use what it has got, yet it seeks to take the **Respondent's** domain name claiming its "business" is being harmed¹⁶⁷.
- 7.115 The **Complainant** submits that there is no basis for a finding under **auDRP**, p4(b)(iv).
- 7.116 In relation to the matters set out in **auDRP** p4(b)(iv), the **Respondent** notes that¹⁶⁸:
- (a) the **Respondent's** redirection (sic) of 13taxi.com.au is not an attempt to attract users to the **Respondent's** website for commercial gain by creating a likelihood of confusion with the **Complainant's** name or trade mark as to the source, sponsorship, affiliation, or endorsement of the **Respondent's** website or the **Respondent's** service;
 - (b) the **Complainant's** case is that its unauthorised diversion of calls from the 13TAXI **Smartnumber** to the **Respondent** does not amount to a representation that the

¹⁶² **RS20AUG14**, p44

¹⁶³ **RS20AUG14**, p45

¹⁶⁴ The **Panellist** notes this submission puts the proposition too broadly. The relevant issue here is the date of assessment of the rights of the **Respondent** rather than the registration or renew. Numerous cases have considered this issue. See for instance [auDRP 12_03 Virtual Industries Group Ltd v. Mr Simon Totonjian](#).

¹⁶⁵ See for example, 2012-04 - Domain Name Eligibility and Allocation Policy Rules for the Open 2LDs at 4.3

¹⁶⁶ **RS20AUG14**, p46

¹⁶⁷ **RS20AUG14**, p47

¹⁶⁸ **RS20AUG14**, p48

Complainant and its service are affiliated with or have the sponsorship or approval of the **Respondent**¹⁶⁹;

- (c) however, at the same time, the **Complainant** raises the wholly inconsistent argument that by redirecting 13taxi.com.au to the **Respondent's** website, the **Respondent** has sought to mislead consumers by suggesting a sponsorship, affiliation or endorsement which is not present;
- (d) the **Complainant** goes as far as to describe taxi operators such as the **Respondent**, TCS and Arrow as "its suppliers";¹⁷⁰
- (e) given that the **Respondent** actually provides the taxi cab services which are requested by callers to the **Smartnumber** 138294 (13TAXI), the **Respondent** is acting in a bona fide manner by using 13taxi.com.au; and
- (f) the **Respondent's** conduct is no different to the conduct of authorised resellers such as in the Topfield Co case.

7.117 Given that the **Respondent** already provides taxi services which are diverted from the **Smartnumber** 138294 (13TAXI), the **Respondent** does not stand to gain further by diverting users to its website.

7.118 The **Respondent** submits that the requirements at **auDRP** p4(a)(ii) and (iii) have not been made out and in the circumstances, the relief sought by the **Complainant** should be denied.

7.119 It is noted that the **Complainant** does not deny that:

- (a) the **Respondent** does not pay any fee to the **Complainant** for these diverted calls; and
- (b) the **Respondent** has never consented to the diversion of calls and has no power to block the calls.

7.120 The statements made at [7.17] to [7.26] above were made to the best of the **Respondent's** knowledge and belief based on its own experiences with the **Complainant**¹⁷¹.

7.121 Based on the **Complainant's** further statements, it is clear that the **Complainant** does not derive any revenue from taxi operators to whom calls are diverted, unless they request "additional services".

7.122 It appears that the **Complainant's** primary source of revenue is from "telecommunications providers" (such as Telstra) and not from taxi operators.

7.123 The **Respondent** agrees with the **Complainant's** submission¹⁷² that the time at which it is required to have rights for the purposes of **auDRP** p4(a)(i) is the time of this **complaint**, not the time that 13taxi.com.au was registered. The dates are only included by way of background¹⁷³.

7.124 In relation to [7.65], [7.74] and 7.89(f), the July 2002 IP Australia examination report notes that¹⁷⁴

"Other traders with a similar phone number are entitled to use these combinations".

7.125 Accordingly, the acquisition of the **Smartnumber** by the **Complainant** is not the end of the matter.

¹⁶⁹ Annexure 12.

¹⁷⁰ See [6.102] above

¹⁷¹ **RS04SEP14, p5.1**

¹⁷² See [6.132] above

¹⁷³ **RS04SEP14, p5.2**

¹⁷⁴ **RS04SEP14, p5.3**

- 7.126 The **Respondent's** statement that the "*Complainant could not obtain a trade mark registration for class 39 services as it does not provide any taxi services*" was limited to the word mark 13TAXI which is inherently descriptive of class 39 taxi services and cannot be owned by any trader in the absence of very substantial use¹⁷⁵.
- 7.127 ATMOSS searches show that the **Complainant's** 13TAXI word mark once included class 25 and class 39 but these were ultimately abandoned by the **Complainant**¹⁷⁶.
- 7.128 The **Complainant** asserts that the ability to register the 13TAXI trade mark is reliant on having **ROU** in the **Smartnumber**, as licensed from **ACMA**.
- 7.129 This misrepresents the practice of the Trade Marks Office.
- 7.130 The relevant extracts from the manual are set out at Annexure R20.
- 7.131 The manual states that a s43 objection will be raised if the applicant is "not also the owner (or authorised user)" of the phoneword.
- 7.132 The same terminology is also used in respect of trade marks incorporating domain names¹⁷⁷.
- 7.133 As a person cannot "own" a phoneword or domain name, it is clear that the word "owner" is a reference to the registered licensee.
- 7.134 Accordingly, "authorised user" can only be a reference to a person who provides services through a phoneword with the authorisation of the licensee of the phoneword.
- 7.135 By virtue of the **Complainant's** diversion of calls to the 13CABS phone line, the **Respondent** is clearly an "authorised user" of the 13TAXI phoneword.
- 7.136 In [John Kolenda](#), Panellist Rothnie found that the domain name registrant had no rights or legitimate interest in circumstances where the registrant was a domain name reseller¹⁷⁸.
- 7.137 Panellist Rothnie noted that the licensing of the phoneword 1300HOMELoAN or the domain name www.1300homeloan.com.au (sic) would not satisfy the close and substantial connection test.
- 7.138 Panellist Rothnie noted that:
- The licensing of phonewords would not satisfy this requirement as the product or service being supplied by the Respondent is the disputed domain name or phoneword and not home loans or information about home loans.*
- 7.139 Relevantly for present purposes, Panellist Rothnie did not say that to satisfy the eligibility criteria, the respondent would need to provide '1300 homeloans' or homeloans from the **Smartnumber** 1300HOMELoAN.
- 7.140 In contrast, in the present case, the **Respondent** is providing taxi services and accordingly, falls within the **Domain Name Policy**, p10.5(b).
- 7.141 There is no requirement that the domain name be a literal description of the services offered and as noted in the [13Flowers](#) decision, "the "13" can be comparatively meaningless or have other descriptive or commercially significant meanings".
- 7.142 The findings concerning *Trade Practices Act*, s52 are entirely distinguishable in the present case.
- 7.143 In [John Kolenda](#), the respondent had no association with the **Smartnumber** 1300HOMELoAN at the time the complaint was filed.

¹⁷⁵ see **Annexure R20** at 22.14.4

¹⁷⁶ Annexure R21, see also lapsed Australian trade mark application nos. 1317159 and 1429314 (**Annexure R22**) in the name of the **Complainant**.

¹⁷⁷ see Manual at 29.4.4.5

¹⁷⁸ **RS04SEP14, p5.4**

- 7.144 However, in the present case, the **Respondent** actually services customers who are voluntarily diverted by the **Complainant** from the **Smartnumber** 13TAXI, to the **Respondent**.
- 7.145 It is difficult to see how the **Respondent** is misleading customers through an association which has been initiated, encouraged and perpetuated by the **Complainant**.
- 7.146 The **Respondent** submits that it is an owner (albeit indirectly) of trade mark no 883532 by virtue of its substantial shareholding in **Taxis Australia**¹⁷⁹.
- 7.147 Notably, the registered address of **Taxis Australia** is "Black Cabs Combined Limited".
- 7.148 The **Complainant's** rigid interpretation of the **Domain Name Policy** ignores the commercial realities of many businesses which have IP holding entities or otherwise diversify the ownership of assets between related entities.
- 7.149 The **Complainant** suggests that an abbreviation can only be a linear truncation of a word or phrase.
- 7.150 The **Respondent** submits that a portmanteau of trade mark no. 883532 would fall within the requirement for an "abbreviation or acronym".
- 7.151 The **Respondent** submits that its rights to and legitimate interest in 13taxi.com.au stem from¹⁸⁰:
- (a) Its trade mark applications and preparation for use of the word 13TAXI between 2001 and 2004;
 - (b) its continued provision of taxi services since the registration of 13taxi.com.au (noting the findings in the [13Flowers](#) decision);
 - (c) its ongoing interest in trade mark no 883532 since 24 July 2001; and
 - (d) its provision of taxi services which are diverted from the 13TAXI Smartnumber since approximately 2007 (noting the findings in **Topfield**).
- 7.152 The **Respondent** submits that the second, third and fourth point above gave the **Respondent** a legitimate interest in 13taxi.com.au at the time the **complaint** was filed.
- 7.153 The **Respondent** contends that having found that the **Respondent** had rights in the 13taxi.com.au at this time, any limitations in the **Respondent's** substantive use of the exact phrase 13TAXI over the preceding 10 year period do not overturn these rights¹⁸¹.
- 7.154 The **Respondent** submits that the documents at Annexures R15 and R16 speak for themselves¹⁸².
- 7.155 The **Respondent** notes that there is a business which has continually used the company name "13 Taxi Pty Limited" since 8 September 2004¹⁸³.
- 7.156 Clearly, the phrase 13Taxi is not linked solely to the 13TAXI **Smartnumber** as asserted by the **Complainant**.
- 7.157 The **Respondent** submits that its rights to and legitimate interest in 13taxi.com.au stem from¹⁸⁴:
- (a) Its trade mark applications and preparation for use of the word 13TAXI between 2001 and 2004;

¹⁷⁹ Annexure R6

¹⁸⁰ **RS04SEP14, p5.5**

¹⁸¹ [Private Real Estate Pty Limited v Chris Papas](#)

¹⁸² **RS04SEP14, p5.6**

¹⁸³ Annexure R16

¹⁸⁴ **RS04SEP14, p5.7**

- (b) its continued provision of taxi services since the registration of the 13taxi.com.au (noting the findings in the [13Flowers](#) decision);
- (c) its ongoing interest in trade mark no 883532 since 24 July 2001; and
- (d) its provision of taxi services in response to calls which have been diverted from the 13TAXI **Smartnumber** since approximately 2007¹⁸⁵.

7.158 The **Respondent** submits that it is using the 13taxi.com.au without intent for commercial gain¹⁸⁶.

7.159 Given that the **Respondent** has actively sought to discourage the diversion of calls from the 13TAXI **Smartnumber**, it is clear that the **Respondent** has no desire to acquire business from the **Complainant** or be associated with the **Complainant**.

7.160 Given that the **Respondent** already reluctantly services calls which are diverted from the 13TAXI **Smartnumber** it is difficult to see how diverting customers to the 13CABS website would give the **Respondent** any additional commercial gain.

7.161 The **Complainant** seeks to rely on the [John Kolenda](#) decision to establish that the **Respondent** has no rights or legitimate interest in 13taxi.com.au¹⁸⁷.

7.162 In particular, the **Complainant** places reliance on **Panellist** Rothnie's finding that the use of a phoneword by someone other than the holder of the phoneword would appear to be 'misleading', in contravention of Trade Practices Act 1974, s52¹⁸⁸.

7.163 The **Respondent** submits that if the **Complainant's** unauthorised diversion of the 13TAXI **Smartnumber** to the **Respondent** is not misleading, then equally, the **Respondent** cannot be acting in a misleading manner by continuing an association which was created unilaterally by the **Complainant** and continued for over 7 years.

7.164 The **Respondent** submits that the .WAV file speaks for itself and that consumers are unlikely to pay any attention to the words "independent call connection service" which are inherently ambiguous (independent of the government? independent of Cabcharge?).

7.165 The service being provided through the 13TAXI **Smartnumber** can be viewed on three levels¹⁸⁹:

- (a) providing a communication link between customers and taxi firms (see specification at Annexure 8);
- (b) the provision of a taxi booking service by the taxi firm; and
- (c) the provision of a taxi cab transport service by the taxi firm.

7.166 When customers are diverted from the 13TAXI **Smartnumber** by the **Complainant**, they are provided with a 13CABS taxi booking service through the 13CABS phone line and are then provided with a 13CABS taxi cab transport service.

7.167 When customers access the 13taxi.com.au they are provided with a communication link to a taxi firm, they are then provided with a 13CABS taxi booking service through the 13CABS website¹⁹⁰ or phone line and are then provided with a 13CABS taxi cab transport service.

7.168 There is simply no basis to suggest that the **Respondent** is baiting and switching in the sense contemplated in the [Oki Data](#) or [Nikon](#) decisions.

¹⁸⁵ noting the findings in [Topfield Co](#)

¹⁸⁶ **RS04SEP14, p5.8**

¹⁸⁷ **RS04SEP14, p5.9**

¹⁸⁸ now Australian Consumer Law, s18

¹⁸⁹ **RS04SEP14, p5.10**

¹⁹⁰ Annexure 1

- 7.169 The **Respondent** is not offering any services other than those which are already diverted to the **Respondent** through the 13TAXI **Smartnumber**.
- 7.170 The **Complainant** has demonstrated no reason that the floristry industry in Australia should be considered to be any different to the floristry industry in the US¹⁹¹.
- 7.171 To the extent that there could be any doubt, Annexure R18 clearly demonstrates the relevance of phonewords in the Australian floristry industry
- 7.172 The **Complainant** argues that the phonewords 1300FLORIST, 1300ROSEONLY and 1300FASTFLOWERS should be disregarded because the registrants of these **Smartnumbers** do not 'trade by reference to the **Smartnumber**'.
- 7.173 In the same paragraph the **Complainant** seeks to place reliance on the phone number 131008 which is a number utilised by the business trading as SILVER TOP.
- 7.174 This phone number is not even a phoneword (the numbers 1 and 0 do not equate to any letter on a standard dialling pad).
- 7.175 The **Complainant** has continually argued that **Smartnumbers** are of greater significance in the taxi industry than in the floristry industry but has only been able to identify the **Complainant** and the **Respondent's** phonewords to support this contention.
- 7.176 There is simply no basis to distinguish the [13Flowers](#) decision as contended by the **Complainant**.
- 7.177 There is no reason that the prefix '13' has any more meaning in the taxi industry than it does in the floristry industry.
- 7.178 The **Respondent** has not omitted the words "or use"¹⁹².
- 7.179 **auDRP** p4(a)(iii) is disjunctive and provides that the **Complainant** must show that the Disputed Domain Name "has been registered **or** subsequently used in bad faith".
- 7.180 The **Respondent** deals with the allegations of registration in bad faith at [7.103] to [7.114].
- 7.181 These paragraphs specifically deal with **auDRP**, p4(b)(ii) and (iii).
- 7.182 The **Respondent** goes on to deal with the allegation of use in bad faith (pursuant to **auDRP**, p4(b)(iv)) at [7.115] to [7.117] above.
- 7.183 The **Respondent** denies that it has used 13taxi.com.au in bad faith within the meaning of **auDRP** 4(b)(iv) or at all.

8. Reasons - General

- 8.1 In order to be entitled to a transfer of a domain name to it the **Complainant** must prove on the balance of probabilities that¹⁹³:
- (a) 13taxi.com.au is identical or confusingly similar to a name, trade mark or service mark in which the Complainant has rights [note 1];
 - (b) the Respondent has no rights or legitimate interests in respect of the Domain Name [note 2]; and
 - (c) the Domain Name has been registered or subsequently used in bad faith.

Note 1 provides:

[1] *For the purposes of this policy, auDA has determined that a "name ... in which the complainant has rights" refers to:*

¹⁹¹ RS04SEP14, p5.11

¹⁹² RS04SEP14, p5.12

¹⁹³ [.au Dispute Resolution Policy \(auDRP\) \(2010-05\) Schedule A Clause 4\(a\)](#).

- a) *the complainant's company, business or other legal or trading name, as registered with the relevant Australian government authority; or*
- b) *the complainant's personal name.*

Note 2 provides

[2] *For the purposes of this policy, auDA has determined that "rights or legitimate interests in respect of the domain name" are not established merely by a registrar's determination that the respondent satisfied the relevant eligibility criteria for the domain name at the time of registration.*

8.2 The policy provides in relation to the interpretation of legitimate interest the following assistance.¹⁹⁴

Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, is to be taken to demonstrate your rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii):

- (i) *before any notice to you of the subject matter of the dispute, your bona fide use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with an offering of goods or services (not being the offering of domain names that you have acquired for the purpose of selling, renting or otherwise transferring); or*
- (ii) *you (as an individual, business, or other organisation) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or*
- (iii) *you are making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the name, trademark or service mark at issue.*

8.3 Further the policy¹⁹⁵ provides for the purposes of bad faith the following circumstances, in particular but without limitation, shall be evidence of the registration and use of a domain name in bad faith:

- (a) *circumstances indicating that the Respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to another person for valuable consideration in excess of its documented out-of-pocket costs directly related to the Domain Name;*
- (b) *the Respondent registered the domain name in order to prevent the owner of a name, trademark or service mark from reflecting that name or mark in a corresponding domain name;*
- (c) *the Respondent registered the domain name primarily for the purpose of disrupting the business or activities of another person; or*
- (d) *by using the Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of that website or location or of a product or service on that website or location.*

8.4 Further, clauses 1 and 2 of Schedule A of the **auDRP** provides

1. Purpose. The .au Dispute Resolution Policy ("auDRP") is incorporated by reference into your Registrant Agreement, and sets forth the terms and conditions in connection with a dispute between you and any party other than us (the registrar) over the registration and use of an Internet domain name registered by you in one of the open .au second level

¹⁹⁴ [.au Dispute Resolution Policy \(auDRP\) \(2010-05\) Schedule A Clause 4\(c\).](#)

¹⁹⁵ [.au Dispute Resolution Policy \(auDRP\) \(2010-05\) Schedule A Clause 4\(b\).](#)

domains (2LDs). Proceedings under Paragraph 4 of this Policy will be conducted according to the Rules for the auDRP (the "auDRP Rules"), which are at Schedule B of this document, and the selected administrative dispute resolution service provider's

2. Your Representations. By applying to register a domain name, or by asking us to maintain or renew a domain name registration, you hereby represent and warrant to us that (a) the statements that you made in your domain name application are complete and accurate, including those as to your eligibility for a domain name in the open 2LD; (b) to your knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party; (c) you are not registering the domain name for an unlawful purpose; and (d) you will not knowingly use the domain name in violation of any applicable laws or regulations. It is your responsibility to determine whether your domain name registration infringes or violates someone else's rights

9. Findings - Is 13taxi.com.au identical or confusingly similar to a name trademark or service mark in which the Complainant has rights

9.1 The **Respondent** conceded that the **Complainant** had established this element¹⁹⁶.

9.2 Accordingly, I find that the **Complainant** has established this element.

9.3 I do not need to consider this element further.

10. Findings – the Respondent has no rights or legitimate interests in respect of the domain name

10.1 I accept the **Complainant’s** submissions set out above on this issue for the reasons that it submits.

10.2 To the extent that the **Respondent’s** submissions are inconsistent with the **Complainant’s** submissions I reject those submissions.

10.3 In relation to this element, the **Respondent** has properly made an important concession in agreeing that the correct time to assess the rights of the **Respondent** is at the date of **complaint**.

10.4 At the date of the **complaint** there was as submitted by the **Complainant** no evidence that the **Respondent** had any rights or legitimate interests and I find that it did not have any such rights or legitimate interest.

10.5 In particular, but without limitation, the fact that 13taxi.com.au website selling taxi services was, at the time of the **complaint**, hosted¹⁹⁷ (not even redirected) using the 13cabs.com.au domain name without substantial explanation of the relevance of the “13” prefix was compelling evidence of the **Respondent** having no rights or legitimate interests in respect of 13taxi.com.au as submitted by the **Complainant**.

11. Findings – 13taxi.com.au has been registered or subsequently used in bad faith

11.1 I accept the **Complainant’s** submissions set out above on this issue for the reasons that it submits.

11.2 To the extent that the **Respondent’s** submissions are inconsistent with the **Complainant’s** submissions I reject those submissions.

11.3 In particular, but without limitation, the fact that 13taxi.com.au website selling taxi services was, at the time of the **complaint**, hosted¹⁹⁸ (not even redirected) using the 13cabs.com.au domain name without substantial explanation of the relevance of the “13” prefix was compelling evidence of bad faith as submitted by the **Complainant**.

12. Orders

12.1 The domain name be transferred to the **Complainant**.



Steve White
Sole Panellist
1 October 2014

¹⁹⁶ see [7.41]

¹⁹⁷ Annexure 1

¹⁹⁸ Annexure 1

Annexure 1 – Screen Capture of 13TAXI.com.au



Black Cabs



There's no stress, Taxi booking by SMS
Get your CABSTOP code here for SMS bookings

Book Online | Our Services | Passenger Information | Driver Information | Operator Information | Contact Us | my13CABS Sign in

Taxi Bookings Online

Monday 14 July 2014 9:08:27 PM

Booking Status

How Many Passengers?

Number of People 1 - 4 5 or more

Your Name & Contact Number

Name

Contact Number

Your Pickup Address

Suburb

Unit or Flat

Street Number

Street

Building Type Unit / House Business

Remember My Details

Help! My address is not listed

13CABS provides tailored transport solutions to businesses and organisations.

To find out about the professional advantages a free customised web solution can offer your organisation please call Fiona on 9277 3711.

Where Are You Going?

Suburb

OR AIRPORT MCG

Popular Places CITY DOCKLANDS

Other Details

Car Type Any Type Wagon

No Vans Please

Notes For Driver

Ready To Go?

When? Now Later

Your request will be processed immediately.
The first available taxi will be sent to your pickup address.

Security Code

Please enter the 2 characters below (not case sensitive)

Reload Image



Your IP Address will be stored for booking security
210.10.106.195

BOOK NOW!

[View Last Booking](#)



13CABS Warrnambool
Book here

13CABS Gift Cards by Cabcharge
Buy Cab Travel Gift Cards online

become a Driver
WORK GUARANTEED ON COURSE COMPLETION
WORK AVAILABLE MELBOURNE WIDE
FLEXIBLE HOURS

13CABS iPhone App
We are proud to announce the official 13CABS mobile booking App.

13CABS Android App
Book a Cab from your Android phone.

Operators
Congratulations on your new Cab licence.

13CABS Fare Estimator
How much is my fare?

Annexure 8 – 13TAXI Trade Mark registration documents

Trade Mark Details

Trade Mark : 1028383

Word: 13TAXI
Image:
Lodgement Date: 05-NOV-2004
Registered From: 05-NOV-2004
Date of Acceptance: 03-SEP-2009
Acceptance Advertised: 17-SEP-2009
Registration Advertised: 28-JAN-2010
Entered on Register: 08-JAN-2010
Renewal Due: 05-NOV-2014
Class/es: 38
Status: Registered/Protected - Renewal Due
Kind: n/a
Type of Mark: Word

Divisionals:

Divisionals: 1317159

Owner/s:**13 Taxi (Australia) Pty Ltd****ACN/ARBN:** 109598950PO Box 89
CARLTON SOUTH VIC 3053
AUSTRALIA**Address for Service: Allens Patent & Trade Mark Attorneys**GPO Box 1776Q
MELBOURNE VIC 3001
AUSTRALIA**Goods & Services**

Class: 38 The transmission of commercial and business information through the establishment of a telephone network; providing communication links between customers and taxi firms

Endorsements: Provisions of subsection 41(5) applied.*

Indexing Details - Word Constituents

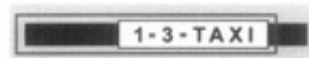
13	13TAXI
NUM	TAXI

Indexing Details - Image Constituents

Trade Mark Details

Trade Mark : 1028382

Word: 1 - 3 - TAXI
Image: CAR NAME PLATE IN RECT. BREAKS RECT.
Lodgement Date: 05-NOV-2004
Registered From: 05-NOV-2004
Date of Acceptance: 26-NOV-2008
Acceptance Advertised: 11-DEC-2008
Registration Advertised: 02-APR-2009
Entered on Register: 19-MAR-2009
Renewal Due: 05-NOV-2014
Class/es: 38, 39
Status: Registered/Protected - Renewal Due
Kind: n/a
Type of Mark: Composite



Owner/s: **13 Taxi (Australia) Pty Ltd**
ACN/ARBN: 109598950
 PO Box 89
 CARLTON SOUTH VIC 3053
 AUSTRALIA

Address for Service: Allens Patent & Trade Mark Attorneys
 GPO Box 1776Q
 MELBOURNE VIC 3001
 AUSTRALIA

Goods & Services

Class: 38 Telecommunication services including the transmission of commercial and business information through the establishment of a telephone network; providing communication links between customers and taxi firms

Class: 39 Transport services; taxi transportation services including the hiring and booking of taxi cars and taxi trucks; travel arrangements in relation to taxis including the provision of location identification details sufficient to enable taxi vehicles to be directed to the location of taxi passengers

Endorsements: The mark is depicted in the colours RED, BLACK and YELLOW as shown in the representation attached to the application form.*

Indexing Details - Word Constituents

1	13
3	NUM
TAXI	

Indexing Details - Image Constituents

FOUR	FOUR-SIDED+
INTERLOCKING	NAMEPLATE
RECTANGLE+	

Annexure 11 – Letter from Respondent to Complainant, 13
September 2007



PIGOTT STINSON LAWYERS

13 September 2007

Our ref: CMS/LMK
Partner: Chris Sydes
Contact: Leonie Kyriacou
Email: l.kyriacou@pigott.com.au

Mr Fiore Inglese
13 Taxi (Australia) Pty Ltd
Level 16, 501 Swanson Street
Melbourne Victoria 3000

By Registered Post;
By Email: Fiore.Inglese@premier.com.au
By Facsimile: (03) 9200 7705

Dear Mr Inglese

13 TAXI

We act for Taxis Combined Services Pty Ltd (TCS), Black Cabs Combined Pty Ltd (BCC) and Arrow Taxi Services Pty Ltd (Arrow Taxis).

It has just come to our clients' attention that your company is representing:

1. at least in its on line advertising that it is operating an Australia wide Taxi Network;
2. at least by telephone through the operation of the "service" provided by its telephone number 13Taxi that it is providing taxi services and taxi booking services which have the sponsorship or approval of TCS, BCC, and Arrow Taxis, and
3. at least by telephone through the operation of the "service" provided by your telephone number 13Taxi that your company has the sponsorship or approval of or an affiliation with TCS, BCC and Arrow Taxis.

Each of those representations is misleading or deceptive or is likely to mislead or deceive in contravention of section 52 of the *Trade Practices Act 1974* ("the Act"), and representations 2 and 3 above also contravene sub sections 53(c) and (d) of the Act respectively, given in particular that you and your company:

- (a) do not operate a Taxi Network, nor hold the appropriate Network Accreditation required pursuant to the relevant statutory provisions, and

- (b) have no affiliation with any of our clients and have never obtained their permission to link your "service" to their telephone booking services or otherwise obtained their sponsorship or approval.

We are instructed to require that you immediately cease the offending conduct specified in paragraphs 1 to 3 inclusive above and provide to us by no later than 4pm on Monday 17 September 2007 your written confirmation that you and your company have done so and your undertaking both personally and by your company that you and your company will not in future by themselves or their officers, servants or agents, make any of the representations specified in paragraphs 1 to 3 above.

In the event that we do not receive your written confirmation and undertakings as requested, we anticipate that we will be instructed to pursue such action through the Courts, the Australian Communications and Media Authority and / or the appropriate tax regulatory authorities as we may advise without further notice to you. We note in particular that we are likely to be instructed to commence Federal Court proceedings for urgent injunctive relief pursuant to section 80 of the Act and for damages and other relief pursuant to sections 82 and 87 of the Act and legal costs.

We accordingly urge your prompt and positive response.

Yours faithfully

PIGOTT STINSON



Chris Sydes

Annexure 12 – Letter from Complainant to Respondent, 17
September 2007



17 September 2007

Pigott Stinson
Level 3
10 Barrack Street
Sydney NSW 2000

Attention: Mr Chris Sydes &
Ms Leonie Kyriacou

By Fax

ABN 47 702 595 758
530 Collins Street
Melbourne VIC 3000
Australia
Tel 61 3 9614 1011
Fax 61 3 9614 4661
Correspondence
GPO Box 1776Q
Melbourne VIC 3001
Australia
DX 30999 Melbourne
www.aar.com.au

Dear Sirs

13 TAXI

We act for 13 Taxi (Australia) Pty Ltd. We refer to your letter dated 13 September 2007.

Our client denies the allegations contained in your letter.

Neither our client's website at www.13taxi.net, nor the service provided by it using the 13 TAXI number, contains a representation that either our client or its service has the sponsorship or approval of any of your clients or is affiliated with your clients. Indeed, our client does not even refer (whether expressly or impliedly) to any of your clients in the course of providing its call connection service. That our client's service is not affiliated with your clients, or any other provider of taxi services, is made clear by the message played each time a person calls the 13 TAXI number, which states that our client's service is 'independent'. Accordingly, neither our client's website, nor its service, contains any representation that is misleading or deceptive or likely to mislead or deceive consumers or which otherwise contravenes any of the sections of the *Trade Practices Act 1974* (Cth) referred to in your letter.

Your letter alleges that our client does not hold 'the appropriate Network Accreditation required pursuant to the relevant statutory provisions', but does not specify those statutory provisions or how it is that our client is required to hold any such network accreditation. From the penultimate paragraph of your letter it also appears you consider our client's service to contravene legislation subject to the jurisdiction of the Australian Communications and Media Authority (**ACMA**) or 'the appropriate taxi regulatory authorities', but your letter does not identify that legislation or otherwise explain how it is that the jurisdiction of the ACMA or those taxi authorities may be invoked. Please explain the basis of your clients' allegations in this regard. Our client reserves its rights to institute proceedings if any unjustified allegations in this regard are made to any authority.

For the reasons set out above, our client declines to provide the confirmation and undertaking sought by your letter.

 **Our Ref** TMRM:MRPM:305434384

tmm A0109172403v2 305434384 17.9.2007

Bangkok
Beijing
Brisbane
Hong Kong
Jakarta
Melbourne
Perth
Phnom Penh
Port Moresby
Shanghai
Singapore
Sydney

Your letter refers to your clients seeking injunctive relief and damages. Our client's service results in business being directed to your clients, amongst others. This does not accordingly seem to be a case where injunctive relief would be granted or damages awarded. However, in the event that your client commences any court proceedings, our client will rely on this letter, including on the question of costs.

Yours faithfully



Annexure 14 – Information relating to the Respondent's name and Trade Marks

Trade Mark Details

Trade Mark : 1056482

Word: 13 CABS THE STREET WISE CALL
Image:
Lodgement Date: 24-MAY-2005
Registered From: 24-MAY-2005
Date of Acceptance: 16-AUG-2006
Acceptance Advertised: 31-AUG-2006
Registration Advertised: 22-FEB-2007
Entered on Register: 02-FEB-2007
Renewal Due: 24-MAY-2015
Class/es: 25
Status: Registered/Protected - Renewal Due
Kind: n/a
Type of Mark: Fancy



Owner/s: **Black Cabs Combined Pty Ltd**
ACN/ARBN: 007321682
 35 Downing Street
 OAKLEIGH VIC 3166
 AUSTRALIA

Address for Service: K&L Gates
 Level 25 South Tower
 525 Collins Street
 MELBOURNE VIC 3000
 AUSTRALIA

Goods & Services

Class: 25 Clothing; footwear; headgear

Indexing Details - Word Constituents

13	CABS
CALL	NUM
STREET	WISE

Indexing Details - Image Constituents

Before the:
LEADR – ASSOCIATION OF DISPUTE RESOLVERS
Level 1, 13-15 Bridge Street
Sydney NSW 2000

13 TAXI (Australia) Pty Ltd (ACN 109 598 950)

(Complainant)

-v-

Black Cabs Combined Pty Ltd (ACN 007 321 682)

(Respondent)

Case No:

auDRP_14_09

Disputed Domain Name:

<13taxi.com.au>

Annexure R1

Printout from ACMA's website;



What is a smartnumber

A smartnumber is a freephone (1800 number) or local rate (13 or 1300 number) telephone number allocated through an online auction system by the Commonwealth Government agency the Australian Communications and Media Authority (ACMA).

Phone numbers are a national resource. The successful bidder for a number does not become the 'owner' of the number. The winning bidder is awarded the enhanced right to use the smartnumber. This right allows the holder to sell or lease the number.

To maintain the enhanced rights you must have the number activated within three years of paying the winning bid amount. If at any time the number is deactivated, the enhanced rights of use continue as long as the number is activated again within three years.

<http://www.url.gov.au/insertURL>
© Commonwealth of Australia 2014

Before the:
LEADR – ASSOCIATION OF DISPUTE RESOLVERS
Level 1, 13-15 Bridge Street
Sydney NSW 2000

13 TAXI (Australia) Pty Ltd (ACN 109 598 950)

(Complainant)

-v-

Black Cabs Combined Pty Ltd (ACN 007 321 682)

(Respondent)

Case No:

auDRP_14_09

Disputed Domain Name:

<13taxi.com.au>

Annexure R2

Wayback Machine searches for the websites www.13taxi.net and www.13taxi.net.au

WayBack Machine interface showing the URL <http://www.13taxi.net/> and a calendar navigation for October 2007, with the 30th highlighted.

13 TAXI

The number you can't forget

The independent call connection service

13 TAXI is the service that connects you to your local taxi service in all capital cities and many regional areas throughout Australia. 13 TAXI is independent of all taxi-cab operators and taxi-cab network service providers.

All you need to do is dial 13 TAXI

Copyright 2007 – 13 TAXI (Australia) Pty Ltd

WayBack Machine interface showing the URL <http://13taxi.net.au/>, a calendar for April 2010 with the 23rd highlighted, and a '7 captures' link.

13 TAXI

**The number you can't forget
The independent call connection service**

13 TAXI is the service that connects you to your local taxi service in all capital cities and many regional areas throughout Australia. 13 TAXI is independent of all taxi-cab operators and taxi-cab network service providers.



All you need to do is dial 13 TAXI

Copyright 2007 – 13 TAXI (Australia) Pty Ltd
To enquire about how to become part of this 13TAXI network. Email info@13taxi.net.au or Call 13TAXITAXI

Before the:
LEADR – ASSOCIATION OF DISPUTE RESOLVERS
Level 1, 13-15 Bridge Street
Sydney NSW 2000

13 TAXI (Australia) Pty Ltd (ACN 109 598 950)

(Complainant)

-v-

Black Cabs Combined Pty Ltd (ACN 007 321 682)

(Respondent)

Case No:

auDRP_14_09

Disputed Domain Name:

<13taxi.com.au>

Annexure R6

Current and historical company search for Taxis Australia Pty Ltd

TAXIS AUSTRALIA PTY LTD 055 008 636
ASIC - Current & Historical Extract - TAXIS AUSTRALIA PTY LTD ACN: 055 008 636

This extract contains information derived from the Australian Securities and Investment Commission's (ASIC) database under section 1274A of the Corporations Act 2001.
Please advise ASIC of any error or omission which you may identify.

IDENTIFICATION

ACN: 055 008 636
ABN: 36 055 008 636
Current Company Name: TAXIS AUSTRALIA PTY LTD
Registered in: New South Wales
Place of Registration:
Registration Date: 04/02/1992
Previous State Number:
Governance Type:
Review Date: 04/02/2015

CURRENT COMPANY DETAILS

Name: TAXIS AUSTRALIA PTY LTD Doc# 003 743 193 ((AR 1992))
Period from: 14/12/1992
Name Start: 04/02/1992
Status: REGISTERED
Type: AUSTRALIAN PROPRIETARY COMPANY
Class: LIMITED BY SHARES
Subclass: PROPRIETARY COMPANY
Disclosing Entity: N

FORMER COMPANY DETAILS

Name: TAXIS AUSTRALIA PTY LTD Doc# 002 070 664
Period from: 04/02/1992 to 13/12/1992
Name Start: 04/02/1992
Status: REGISTERED
Type: AUSTRALIAN PROPRIETARY COMPANY
Class: LIMITED BY SHARES
Subclass: EXEMPT PROPRIETARY COMPANY
Disclosing Entity: N

CURRENT COMPANY ADDRESS

Address Type: Registered Office Doc# 0E7990054 ((AR 2002))
Address: BLACK CABS COMBINED LIMITED
35 DOWNING STREET
OAKLEIGH VIC 3166
Period from: 17/08/1998

Address Type: Principal Place of Business Doc# 014 277 294
Address: 35 DOWNING STREET
OAKLEIGH VIC 3166
Period from: 19/10/1998

FORMER COMPANY ADDRESS

Address Type: Registered Office Doc# 0E6549268 ((AR 2001))
Address: 35 DOWNING STREET
OAKLEIGH VIC 3166
Period from: 17/08/1998 to 24/11/2002

Address Type: Registered Office Doc# 014 614 425
Address: BLACK CABS COMBINED LTD
35 DOWNING STREET

OAKLEIGH VIC 3166

Period from: 17/08/1998 to 04/12/2001

Address Type: Registered Office

Doc# 004 889 374

Address: 118 ATKINSON STREET
OAKLEIGH VIC 3166

Period from: 08/12/1993 to 16/08/1998

Address Type: Registered Office

Doc# 002 687 434

Address: 357 GLENMORE ROAD
PADDINGTON NSW 2021

Period from: 13/02/1992 to 07/12/1993

Address Type: Registered Office

Doc# 002 070 664

Address: SUITE 204
35 SPRING STREET
BONDI JUNCTION NSW 2022

Period from: 04/02/1992 to 12/02/1992

Address Type: Principal Place of Business

Doc# 05500863E ((AR 1994))

Address: 118 ATKINSON STREET
OAKLEIGH VIC 3166

Period from: 30/06/1994 to 18/10/1998

Address Type: Principal Place of Business

Doc# 003 743 193 ((AR 1992))

Address: 357 GLENMORE ROAD
PADDINGTON NSW 2021

Period from: 14/12/1992 to 29/06/1994

Address Type: Principal Place of Business

Doc# 002 070 664

Address: SUITE 204
35 SPRING STREET
BONDI JUNCTION NSW 2022

Period from: 04/02/1992 to 13/12/1992

CURRENT COMPANY OFFICERS

Role: Director

Doc# 002 479 995

Name: HYER, PETER JOHN

Address: 9 RANGE ROAD
WEST PENNANT HILLS NSW 2125

Date of Birth: 23/02/1936

Place of Birth: AUBURN NSW

Appointment Date: 07/07/1992

Cease Date:

Role: Director

Doc# 016 482 774

Name: HANCOCK, KIM ANTHONY

Address: 21 HEYDON CRESCENT
EVATT ACT 2617

Date of Birth: 22/01/1949

Place of Birth: CANBERRA ACT

Appointment Date: 25/07/2000

Cease Date:

Role: Director

Doc# 1F0373489

Name: FOLEY, KEVIN BARRY

Address: 149 MOORING ROAD
ATTADALE WA 6156

Date of Birth: 23/06/1936

Place of Birth: SUBIACO WA

Appointment Date: 07/07/1992

Cease Date:

Role: Director

Doc# 028 376 524

Name: FORD, NEILL DOUGLAS
Address: UNIT 109
1 SCOTT STREET
KANGAROO POINT QLD 4169
Date of Birth: 25/01/1950
Place of Birth: BARTON ON SEA UNITED KINGDOM
Appointment Date: 07/07/1992
Cease Date:

Role: Director Doc# 7E5507859
Name: SKELTON, ANDREW MARK
Address: 107 BOUNDARY STREET
CLOVELLY NSW 2031
Date of Birth: 10/09/1972
Place of Birth: BEAUFORT VIC
Appointment Date: 14/04/2011
Cease Date:

Role: Secretary Doc# 7E5507859
Name: SKELTON, ANDREW MARK
Address: 107 BOUNDARY STREET
CLOVELLY NSW 2031
Date of Birth: 10/09/1972
Place of Birth: BEAUFORT VIC
Appointment Date: 14/07/2003
Cease Date:

Role: Appointed Auditor Doc# 0E1515182 ((AR 1997))
Name: RAGG WEIR & CO.
Number: 027 408 297
Address: C/- RAGG WEIR & CO
LEVEL 2
50 BURWOOD ROAD
HAWTHORN VIC 3122
Appointment Date: 23/11/1993
Cease Date:

Role: Ultimate Holding Company Doc# 7E5018610
Name: CABCHARGE AUSTRALIA LIMITED
ACN: 001 958 390
Address:
Appointment Date:
Cease Date:

FORMER COMPANY OFFICERS

Role: Principal Executive Officer Doc# 002 642 888
Name: HAARSMA, SHIRLEY
Address: 38 HARGRAVE STREET
PADDINGTON NSW 2021
Date of Birth: 31/07/1960
Place of Birth: CARLISLE UNITED KINGDOM
Appointment Date: 04/02/1992
Cease Date: 05/02/1992

Role: Director Doc# 014 404 494
Name: KERMODE, REGINALD LIONEL
Address: 28 CENTENNIAL AVENUE
RANDWICK NSW 2031
Date of Birth: 24/09/1926
Place of Birth: SMITHTOWN NSW
Appointment Date: 20/03/1998

Cease Date: 30/04/2014

Role: Director Doc# 015 003 036
Name: BARTON, RONALD SYDNEY
Address: 1A RANELAGH STREET
WOODVILLE SA 5011
Date of Birth: 27/05/1954
Place of Birth: PORTSMOUTH UNITED KINGDOM
Appointment Date: 07/07/1992
Cease Date: 12/03/2013

Role: Director Doc# 019 935 668
Name: BRADD, GARRY FREDERICK
Address: 22 ST NINIANS ROAD
BRIGHTON VIC 3186
Date of Birth: 02/06/1946
Place of Birth: MELBOURNE VIC
Appointment Date: 21/05/1994
Cease Date: 14/04/2011

Role: Director Doc# 015 003 036
Name: WARD, ALAN CHARLES
Address: 495 CHURCHILL AVENUE
SANDY BAY TAS 7005
Date of Birth: 17/01/1945
Place of Birth: HOBART TAS
Appointment Date: 07/07/1992
Cease Date: 25/07/2000

Role: Director Doc# 015 077 321
Name: MCMICHAEL, DONNALD
Address: 47 COBBY STREET
CAMPBELL ACT 2612
Date of Birth: 06/03/1952
Place of Birth: MELBOURNE VIC
Appointment Date: 07/07/1992
Cease Date: 25/07/2000

Role: Director Doc# 010 464 043
Name: MEREDITH, RAYMOND JOHN
Address: 28 GRACE AVENUE
FRENCHS FOREST NSW 2086
Date of Birth: 08/10/1937
Place of Birth: SYDNEY NSW
Appointment Date: 12/12/1995
Cease Date: 20/03/1998

Role: Director Doc# 005 852 401
Name: BACIC, RALPH
Address: 9 HUGH AVENUE
DULWICH HILL NSW 2203
Date of Birth: 06/07/1932
Place of Birth: KARLSBAD CZECH REPUBLIC
Appointment Date: 24/11/1993
Cease Date: 24/11/1994

Role: Director Doc# 002 460 819
Name: SACH, NEIL DONALD
Address: LOT 2 DACKERY'S ROAD
SUGARLOAF CREEK VIA BROADFORD VIC 3658

Date of Birth: 27/03/1944
Place of Birth: SYDNEY NSW
Appointment Date: 07/07/1992
Cease Date: 21/05/1994

Role: Director

Doc# 002 479 995

Name: FLEMING, RICHARD TALBOT

Address: 8 STROMBOLI PLACE
BILGOLA NSW 2107

Date of Birth: 26/08/1946
Place of Birth: SYDNEY NSW
Appointment Date: 07/07/1992
Cease Date: 24/11/1993

Role: Director

Doc# 002 460 824

Name: BRADD, GARRY FREDERICK

Address: 36 CAMPERDOWN STREET
BRIGHTON EAST VIC 3187

Date of Birth: 02/06/1946
Place of Birth: MELBOURNE VIC
Appointment Date: 07/07/1992
Cease Date: 24/11/1993

Role: Director

Doc# 002 155 849

Name: KERMODE, REGINALD LIONEL

Address: 28 CENTENNIAL AVENUE
RANDWICK NSW 2031

Date of Birth: 24/09/1926
Place of Birth: SMITHTOWN NSW
Appointment Date: 05/02/1992
Cease Date: 07/07/1992

Role: Director

Doc# 002 155 849

Name: NORTON, GEORGE

Address: UNIT 2
75 ST GEORGES CRESCENT
DRUMMOYNE NSW 2047

Date of Birth: 04/10/1929
Place of Birth: SYDNEY NSW
Appointment Date: 05/02/1992
Cease Date: 07/07/1992

Role: Director

Doc# 002 642 888

Name: BALL, LISA GAYE

Address: UNIT 2301
71-73 SPRING STREET
BONDI JUNCTION NSW 2022

Date of Birth: 10/11/1968
Place of Birth: AUCKLAND NEW ZEALAND
Appointment Date: 04/02/1992
Cease Date: 05/02/1992

Role: Director

Doc# 002 642 888

Name: HAARSMA, SHIRLEY

Address: 38 HARGRAVE STREET
PADDINGTON NSW 2021

Date of Birth: 31/07/1960
Place of Birth: CARLISLE UNITED KINGDOM
Appointment Date: 04/02/1992

Cease Date: 05/02/1992

Role: Secretary Doc# 0E7190602
 Name: TUCKWELL, DAVID EDWARD
 Address: 3 ALICUDI AVENUE
 FRANKSTON VIC 3199
 Date of Birth: 21/11/1936
 Place of Birth: SYDNEY NSW
 Appointment Date: 24/11/1993
 Cease Date: 14/07/2003

Role: Secretary Doc# 002 155 849
 Name: BIGGS, CHRISTOPHER
 Address: 12 MIRRABOOK PLACE
 HEATHCOTE NSW 2233
 Date of Birth: 12/05/1957
 Place of Birth: DERBYSHIRE UNITED KINGDOM
 Appointment Date: 05/02/1992
 Cease Date: 24/11/1993

Role: Secretary Doc# 002 642 888
 Name: HAARSMA, SHIRLEY
 Address: 38 HARGRAVE STREET
 PADDINGTON NSW 2021
 Date of Birth: 31/07/1960
 Place of Birth: CARLISLE UNITED KINGDOM
 Appointment Date: 04/02/1992
 Cease Date: 05/02/1992

Role: Appointed Auditor Doc# 003 743 193 ((AR 1992))
 Name: BLACKETT & LEWIS
 Number: 020 939 379
 Address: 4TH LEVEL BMA TOWER
 515 PACIFIC HIGHWAY
 CHATSWOOD NSW 2067
 Appointment Date: 12/10/1992
 Cease Date: 24/11/1993

CURRENT SHARE CAPITAL

Class: A A CLASS ORDINARY SHARES Doc# 0E0805517 ((AR 1996))
 Number of Issued "Shares" : 54,430
 Amount Paid: \$54,430.00
 Amount Due: \$0.00

Class: ORD ORDINARY SHARES Doc# 0E1515182 ((AR 1997))
 Number of Issued "Shares" : 2
 Amount Paid: \$2.00
 Amount Due: \$0.00

Note: For each class of shares issued by a proprietary company, ASIC records the details of the twenty members of the class (based on shareholdings). The details of any other members holding the same number of shares as the twentieth ranked member will also be recorded by ASIC on the database. Where available, historical records show that a member has ceased to be ranked amongst the twenty members. This may, but does not necessarily mean, that they have ceased to be a member of the company.

FORMER SHARE CAPITAL

Class: ORD1 ORDINARY SHARES Doc# 0E0805517 ((AR 1996))
 Number of Issued "Shares" : 2
 Amount Paid: \$2.00
 Amount Due: \$0.00

Class: ORD ORDINARY SHARES Doc# 05500863E ((AR 1994))
 Number of Issued "Shares" : 2
 Amount Paid: \$2.00

Amount Due: \$0.00

CURRENT(SHAREHOLDERS/MEMBER)

Class: A Doc# 003 743 193 ((AR 1992))
Number of Shares Held: 5,670
Beneficially Owned: Y
Fully Paid: Y
Name: YELLOW TAXI TRUCKS (QUEENSLAND) PTY LTD
ACN: 010 257 888
Address: 116 LOGAN ROAD
WOOLLOONGABBA QLD 4102
Joint Holding: N

Class: A Doc# 003 743 193 ((AR 1992))
Number of Shares Held: 17,000
Beneficially Owned: Y
Fully Paid: Y
Name: TAXIS COMBINED SERVICES PTY LTD
ACN: 001 235 847
Address: 357 GLENMORE ROAD
PADDINGTON NSW 2021
Joint Holding: N

Class: A Doc# 003 743 193 ((AR 1992))
Number of Shares Held: 7,500
Beneficially Owned: Y
Fully Paid: Y
Name: SWAN TAXIS CO-OPERATIVE LIMITED
Address: 1008 WELLINGTON STREET
WEST PERTH WA 6005
Joint Holding: N

Class: A Doc# 003 743 193 ((AR 1992))
Number of Shares Held: 1,910
Beneficially Owned: Y
Fully Paid: Y
Name: AERIAL TAXI CABS CO-OPERATIVE SOCIETY LTD
Address: LYONS PLACE
LYONS ACT 2606
Joint Holding: N

Class: A Doc# 003 743 193 ((AR 1992))
Number of Shares Held: 1,000
Beneficially Owned: Y
Fully Paid: Y
Name: TAXI COMBINED SERVICES (HOBART) PTY. LTD.
ACN: 009 509 979
Address: 56 KING STREET
SANDY BAY TAS 7005
Joint Holding: N

Class: A Doc# 0E5005146 ((AR 2000))
Number of Shares Held: 7,000
Beneficially Owned: Y
Fully Paid: Y
Name: PREMIER CABS PTY. LIMITED
ACN: 000 554 647
Address: 33 WOODVILLE ROAD
GRANVILLE NSW 2142
Joint Holding: N

Class: A Doc# 0E5005146 ((AR 2000))
Number of Shares Held: 11,050
Beneficially Owned: Y
Fully Paid: Y
Name: BLACK CABS COMBINED PTY LTD
ACN: 007 321 682
Address: 35 DOWNING STREET
OAKLEIGH VIC 3166
Joint Holding: N

Class: A Doc# 028 131 990
Number of Shares Held: 3,300
Beneficially Owned: Y
Fully Paid: Y
Name: YELLOW CABS SOUTH AUSTRALIA PTY LTD
ACN: 156 490 532
Address: 152-162 RILEY STREET
DARLINGHURST NSW 2010
Joint Holding: N

Class: ORD Doc# 0E1515182 ((AR 1997))
Number of Shares Held: 2
Beneficially Owned: Y
Fully Paid: Y
Name: TAXIS COMBINED SERVICES PTY LTD
ACN: 001 235 847
Address: 357 GLENMORE ROAD
PADDINGTON NSW 2021
Joint Holding: N

FORMER(SHAREHOLDERS/MEMBER)

Class: A Doc# 0E5005146 ((AR 2000))
Number of Shares Held: 3,300
Beneficially Owned: Y
Fully Paid: Y
Name: E.M.U.T. PTY LTD
ACN: 007 840 575
Address: 20 ROSSLYN STREET
MILE END SOUTH SA 5031
Joint Holding: N

Class: A Doc# 0E3908487 ((AR 1999))
Number of Shares Held: 7,000
Beneficially Owned: Y
Fully Paid: Y
Name: PREMIER CABS PTY. LIMITED
ACN: 000 554 647
Address: 33 WOODVILLE ROAD
GRANVILLE NSW 2142
Joint Holding: N

Class: A Doc# 0E2536637 ((AR 1998))
Number of Shares Held: 7,000
Beneficially Owned: Y
Fully Paid: Y
Name: PREMIER CABS PTY. LIMITED
ACN: 000 554 647
Address: 33 WOODVILLE ROAD
GRANVILLE NSW 2142
Joint Holding: N

Class: A Doc# 0E1515182 ((AR 1997))
Number of Shares Held: 7,000
Beneficially Owned: Y
Fully Paid: Y
Name: PREMIER CABS PTY. LIMITED
ACN: 000 554 647
Address: 33 WOODVILLE ROAD
GRANVILLE NSW 2142
Joint Holding: N

Class: A Doc# 003 743 193 ((AR 1992))
Number of Shares Held: 7,000
Beneficially Owned: Y
Fully Paid: Y
Name: PREMIER CABS PTY. LIMITED
ACN: 000 554 647
Address: 33 WOODVILLE ROAD
GRANVILLE NSW 2142
Joint Holding: N

Class: ORD1 Doc# 0E0805517 ((AR 1996))
Number of Shares Held: 2
Beneficially Owned: Y
Fully Paid: Y
Name: TAXIS COMBINED SERVICES PTY LTD
ACN: 001 235 847
Address: 357 GLENMORE ROAD
PADDINGTON NSW 2021
Joint Holding: N

Class: ORD Doc# 05500863E ((AR 1994))
Number of Shares Held: 2
Beneficially Owned: Y
Fully Paid: Y
Name: TAXIS COMBINED SERVICES PTY LTD
ACN: 001 235 847
Address: 357 GLENMORE ROAD
PADDINGTON NSW 2021
Joint Holding: N

Class: A Doc# 003 743 193 ((AR 1992))
Number of Shares Held: 4,300
Beneficially Owned: Y
Fully Paid: Y
Name: BLACK CABS & EASTERN GROUP TAXIS
Address: 1557 DANDENONG ROAD
OAKLEIGH VIC 3166
Joint Holding: N

Class: A Doc# 003 743 193 ((AR 1992))
Number of Shares Held: 6,750
Beneficially Owned: Y
Fully Paid: Y
Name: TAXIS COMBINED SERVICES (VICTORIA) PTY LTD
ACN: 006 372 603
Address: 194 BURWOOD ROAD
HAWTHORN VIC 3122
Joint Holding: N

DOCUMENTS RELATING TO EXTERNAL ADMINISTRATION AND/OR APPOINTMENT OF CONTROLLER

Note: This extract may not list all documents relating to this status. State and Territory records should be searched.

No record

SATISFIED CHARGES

Note: On January 30, 2012 the Personal Property Securities Register (PPS Register) has commenced. The details of current charges will only be available from the PPS Register and the details of satisfied charges (as at 30th January 2012) can be obtained from ASIC. Further information can be obtained from www.ppsr.gov.au.

No record

ASIC DOCUMENTS (except charges)

Notes:

- A date or address shown as UNKNOWN has not been updated since the ASIC to over the records in 1991.
- Data from Documents with no Date Processed are not included in the Extract.
- Documents with "****" pages have not yet been imaged and are not available via DOCIMAGE. Imaging takes approximately 2 weeks from date of lodgement.
- Documents already listed under charges are not repeated here.

Form Type	Date Received	Date Processed	Effective Date	Pages	Doc No
484 Change to Company Details Appointment or Cessation of A Company Officeholder	21/05/2014	21/05/2014	21/05/2014	2	7E6064283
484 Change to Company Details Change Officeholder Name Or Address	12/09/2013	12/09/2013	12/09/2013	2	7E5507859
484 Change to Company Details Appointment or Cessation of A Company Officeholder	14/03/2013	14/03/2013	14/03/2013	2	7E5085630
484 Change to Company Details Change to Ultimate Holding Company	13/02/2013	13/02/2013	13/02/2013	2	7E5018610
484 Change to Company Details Change Officeholder Name Or Address	14/01/2013	05/02/2013	14/01/2013	3	028 376 524
484 Change to Company Details Changes to (Members) Share Holdings	28/08/2012	28/08/2012	28/08/2012	6	028 131 990
484 Change to Company Details Change Officeholder Name Or Address	16/01/2012	16/01/2012	16/01/2012	3	028 014 025
484 Change to Company Details Change Officeholder Name or Address Appointment or Cessation of a Company Officeholder	21/04/2011	21/04/2011	21/04/2011	4	1F0373489
484 Change to Company Details Change Officeholder Name Or Address	31/03/2010	31/03/2010	04/03/2010	2	1E6378728
483 Company Compliance Statement (Response to Return Of Particulars)	23/01/2006	25/01/2006	08/11/2005	2	022 620 159
484 Change to Company Details Change of Officeholder/member Name Or Address	24/12/2003	05/01/2004	18/12/2003	3	019 935 668
484 Change to Company Details Appointment or Cessation of A Company Officeholder	21/07/2003	23/07/2003	14/07/2003	7	019 325 824
316 Annual Return Annual Return - Proprietary Company	25/11/2002	05/12/2002	13/11/2002	4	0E7990054 ((AR 2002))
304 Notification of Change of Name or Address of Officeholder	27/03/2002	27/03/2002	22/03/2002	1	0E7190602
316 Annual Return Annual Return - Proprietary Company	05/12/2001	07/12/2001	27/11/2001	4	0E6549268 ((AR 2001))
902 Supplementary Document Alters 0E5 005 146	15/12/2000	20/12/2000	14/12/2000	1	0E5231605
316 Annual Return Annual Return - Proprietary Company Altered by 0E5 231 605	31/10/2000	20/12/2000	05/09/2000	4	0E5005146 ((AR 2000))
304 Notification of Change of Name or Address of Officeholder	27/09/2000	17/10/2000	18/09/2000	2	016 635 116
304 Notification of Change to Officeholders of Australian Company	03/08/2000	11/08/2000	25/07/2000	2	016 482 774
902	27/01/2000	11/02/2000	22/11/1999	1	016 256 374

Supplementary Document Alters 0E3 908 487

316	22/12/1999	11/02/2000	22/11/1999	4	0E3908487 ((AR 1999))
	ANNUAL RETURN - PROPRIETARY COMPANY Altered by 016 256 374				
304	28/10/1999	28/10/1999	14/10/1999	1	0E3630545
	NOTIFICATION OF CHANGE OF NAME OR ADDRESS OF OFFICEHOLDER				
304	21/12/1998	30/12/1998	16/12/1998	2	015 077 321
	NOTIFICATION OF CHANGE OF NAME OR ADDRESS OF OFFICEHOLDER				
304	15/12/1998	23/12/1998	10/12/1998	2	015 003 036
	NOTIFICATION OF CHANGE OF NAME OR ADDRESS OF OFFICEHOLDER				
316	02/12/1998	02/12/1998	26/11/1998	4	0E2536637 ((AR 1998))
	ANNUAL RETURN - PROPRIETARY COMPANY				
203	26/10/1998	30/10/1998	19/10/1998	1	014 277 294
	NOTIFICATION OF CHANGE OF ADDRESS - PRINCIPAL PLACE OF BUSINESS				
304	12/10/1998	20/10/1998	20/03/1998	4	014 404 494
	NOTIFICATION OF CHANGE TO OFFICEHOLDERS OF AUSTRALIAN COMPANY				
203	10/08/1998	12/08/1998	17/08/1998	1	014 614 425
	NOTIFICATION OF CHANGE OF ADDRESS				
316	14/11/1997	14/11/1997	12/11/1997	6	0E1515182 ((AR 1997))
	ANNUAL RETURN - PROPRIETARY COMPANY				
902	23/12/1996	24/12/1996	23/12/1996	1	0E0851360
	SUPPLEMENTARY DOCUMENT Alters 0E0 805 517				
316	10/12/1996	24/12/1996	29/11/1996	5	0E0805517 ((AR 1996))
	ANNUAL RETURN - PROPRIETARY COMPANY Altered by 0E0 851 360				
316	14/12/1995	29/12/1995	12/12/1995	18	010 025 038 ((AR 1995))
	ANNUAL RETURN - PROPRIETARY COMPANY				
304	14/12/1995	19/12/1995	12/12/1995	4	010 464 043
	NOTIFICATION OF CHANGE TO OFFICEHOLDERS OF AUSTRALIAN COMPANY				
304	05/12/1994	11/01/1995	24/11/1994	4	007 464 418
	NOTIFICATION OF CHANGE TO OFFICEHOLDERS OF AUSTRALIAN COMPANY				
316	01/12/1994	11/01/1995	24/11/1994	5	05500863E ((AR 1994))
	ANNUAL RETURN				
304	09/06/1994	15/06/1994	21/05/1994	4	005 790 754
	NOTIFICATION OF CHANGE TO OFFICEHOLDERS OF AUSTRALIAN COMPANY				
316	10/12/1993	10/12/1993	24/11/1993	12	05500863D ((AR 1993))
	ANNUAL RETURN				
203	01/12/1993	08/12/1993	25/11/1993	1	004 889 374
	NOTIFICATION OF CHANGE OF ADDRESS				
315	01/12/1993	06/12/1993	19/11/1993	1	005 852 403
	NOTICE OF RESIGNATION OR REMOVAL OF AUDITOR				
304	01/12/1993	07/02/1994	24/11/1993	3	005 852 402
	NOTIFICATION OF CHANGE TO OFFICEHOLDERS OF AUSTRALIAN COMPANY				
304	01/12/1993	04/01/1994	24/11/1993	4	005 852 401
	NOTIFICATION OF CHANGE TO OFFICEHOLDERS OF AUSTRALIAN COMPANY				
316	14/12/1992	07/01/1993	25/11/1992	5	003 743 193 ((AR 1992))
	ANNUAL RETURN				
207	24/08/1992	24/08/1992	07/07/1992	3	002 460 874
	NOTIFICATION OF ALLOTMENT OF SHARES REGARDING SUBSEQUENT ALLOTMENT				
207	24/08/1992	24/08/1992	07/07/1992	3	002 460 809
	NOTIFICATION OF ALLOTMENT OF SHARES REGARDING SUBSEQUENT ALLOTMENT				
207	24/08/1992	24/08/1992	07/07/1992	4	002 460 814
	NOTIFICATION OF ALLOTMENT OF SHARES REGARDING SUBSEQUENT ALLOTMENT				
207	24/08/1992	24/08/1992	07/07/1992	3	002 479 994
	NOTIFICATION OF ALLOTMENT OF SHARES REGARDING SUBSEQUENT ALLOTMENT				

207	24/08/1992	24/08/1992	07/07/1992	3	002 479 999
	NOTIFICATION OF ALLOTMENT OF SHARES REGARDING SUBSEQUENT ALLOTMENT				
304	24/08/1992	30/09/1992	07/07/1992	5	002 460 819
	NOTIFICATION OF CHANGE TO OFFICEHOLDERS OF AUSTRALIAN COMPANY				
207	24/08/1992	24/08/1992	07/07/1992	3	002 479 985
	NOTIFICATION OF ALLOTMENT OF SHARES REGARDING SUBSEQUENT ALLOTMENT				
304	24/08/1992	30/09/1992	07/07/1992	6	002 460 824
	NOTIFICATION OF CHANGE TO OFFICEHOLDERS OF AUSTRALIAN COMPANY				
207	24/08/1992	24/08/1992	07/07/1992	3	002 479 990
	NOTIFICATION OF ALLOTMENT OF SHARES REGARDING SUBSEQUENT ALLOTMENT				
207	24/08/1992	24/08/1992	07/07/1992	3	002 461 343
	NOTIFICATION OF ALLOTMENT OF SHARES REGARDING SUBSEQUENT ALLOTMENT				
304	24/08/1992	30/09/1992	07/07/1992	6	002 460 829
	NOTIFICATION OF CHANGE TO OFFICEHOLDERS OF AUSTRALIAN COMPANY				
207	24/08/1992	24/08/1992	07/07/1992	3	002 461 348
	NOTIFICATION OF ALLOTMENT OF SHARES REGARDING SUBSEQUENT ALLOTMENT				
304	24/08/1992	30/09/1992	07/07/1992	6	002 460 834
	NOTIFICATION OF CHANGE TO OFFICEHOLDERS OF AUSTRALIAN COMPANY				
205	24/08/1992	24/08/1992	07/07/1992	29	002 480 000
	NOTIFICATION OF RESOLUTION ALTERING THE ARTICLES				
304	24/08/1992	25/08/1992	07/07/1992	2	002 479 995
	NOTIFICATION OF CHANGE TO OFFICEHOLDERS OF AUSTRALIAN COMPANY				
207	07/02/1992	12/02/1992	05/02/1992	3	002 155 843
	NOTIFICATION OF ALLOTMENT OF SHARES REGARDING SUBSEQUENT ALLOTMENT				
304	07/02/1992	15/02/1992	05/02/1992	3	002 155 849
	NOTIFICATION OF CHANGE TO OFFICEHOLDERS OF AUSTRALIAN COMPANY				
356	06/02/1992	11/02/1992	05/02/1992	1	002 687 445
	NOTICE OF RETIREMENT OF DIRECTOR				
203	06/02/1992	11/02/1992	05/02/1992	1	002 687 434
	NOTIFICATION OF CHANGE OF ADDRESS				
209	06/02/1992	10/02/1992	05/02/1992	1	002 687 418
	NOTICE OF REDEMPTION OF REDEEMABLE PREFERENCE SHARES				
215	05/02/1992	26/02/1992	04/02/1992	1	002 642 888
	NOTIFICATION OF INITIAL APPOINTMENT OF OFFICEHOLDERS				
204	05/02/1992	05/02/1992	05/02/1992	1	002 070 683
	CERTIFICATE OF REGISTRATION DIVISION 1 PT 2.2				
201	04/02/1992	04/02/1992	04/02/1992	3	002 070 664
	APPLICATION FOR REGISTRATION AS A PROPRIETARY COMPANY				
410	04/02/1992	04/02/1992	04/02/1992	1	002 070 681
	APPLICATION FOR RESERVATION OF A NAME OF A NEW AUSTRALIAN COMPANY				

PRE-ASIC DOCUMENTS

No record

ANNUAL RETURNS

Year	Outstanding	Return Due Date	Extended Return Due Date	AGM Due Date	Extended AGM Due Date	AGM Held Date
1992	N	31/01/1993		31/12/1992		25/11/1992
1993	N	31/01/1994		31/12/1993		24/11/1993
1994	N	31/01/1995		31/12/1994		24/11/1994
1995	N	31/01/1996				
1996	N	31/01/1997				
1997	N	31/01/1998				
1998	N	31/01/1999				

1999	N	31/01/2000
2000	N	31/01/2001
2001	N	31/01/2002
2002	N	31/01/2003

FINANCIAL REPORTS

No record

FORMER CONTACT ADDRESS FOR ASIC USE ONLY

Note: Section 146A of the Corporations Act 2001 states 'A contact address is the address to which communications and notices are sent from ASIC to the company.'

Address Type: Contact address for ASIC use only

Address: PO BOX 325
HAWTHORN VIC 3122

Period from: 28/06/2003 to 17/09/2012

Before the:
LEADR – ASSOCIATION OF DISPUTE RESOLVERS
Level 1, 13-15 Bridge Street
Sydney NSW 2000

13 TAXI (Australia) Pty Ltd (ACN 109 598 950)

(Complainant)

-v-

Black Cabs Combined Pty Ltd (ACN 007 321 682)

(Respondent)

Case No:

auDRP_14_09

Disputed Domain Name:

<13taxi.com.au>

Annexure R7

Printouts of ATMOSS searches for TA Marks

[Print](#)

List Of Trade Mark Details

Trade Mark : 883532

Word: TAXIS AUSTRALIA 13 2227 CABS
TAXISAUSTRALIA.COM.AU

Image: 4 STARS,7-POINT BREAK MAP,AUSTRALIA;
OBLIQUE STRIPE FORMS PART OF LTR X

Lodgement Date: 24-JUL-2001

Registered From: 24-JUL-2001

Date of Acceptance: 06-NOV-2001

Acceptance Advertised: 22-NOV-2001

Registration Advertised: 13-JUN-2002

Entered on Register: 27-MAY-2002

Renewal Due: 24-JUL-2021

Class/es: 39

Status: Registered/Protected

Kind: n/a

Type of Mark: Composite



Owner/s: **Taxis Australia Pty Ltd**
ACN/ARBN: 055008636
[see full address](#)
OAKLEIGH VIC 3166
AUSTRALIA

Address for Service: K&L Gates
[see full address](#)
MELBOURNE VIC 3000
AUSTRALIA

Goods & Services

Class 39: Taxi services including taxi reservation and taxi booking services, taxi transport, taxi hire, services in this class provided by taxi operators, taxi fleets; travel arrangements in relation to taxis; courier services, parcel delivery, delivery of messages, mail and merchandise by courier

Trade Mark : 900410

Word: 13 CABS

Image:

Lodgement Date: 16-JAN-2002

Registered From: 16-JAN-2002

Date of Acceptance: 18-DEC-2003
Acceptance Advertised: 15-JAN-2004
Registration Advertised: 01-JUL-2004
Entered on Register: 15-JUN-2004
Renewal Due: 16-JAN-2022
Class/es: 12, 39
Status: Registered/Protected
Kind: n/a
Type of Mark: Word

Endorsement: See text below
Owner/s: **Taxis Australia Pty Ltd**
ACN/ARBN: 055008636
[see full address](#)
OAKLEIGH VIC 3166
AUSTRALIA

Address for Service: K&L Gates
[see full address](#)
MELBOURNE VIC 3000
AUSTRALIA

Goods & Services

Class 12: Motor vehicles for hire purposes

Class 39: Taxi services including taxi transport, taxi hire, and taxi booking and reservation services; services in this class provided by taxi operators, taxi fleets, and taxi industry; travel arrangements in relation to taxis; courier services

Endorsements: Provisions of subsection 41(5) applied.*

Trade Mark : 900411

Word: 13 TAXI
Image:
Lodgement Date: 16-JAN-2002
Lapsing Advertised: 29-JAN-2004
Class/es: 12, 39
Status: Lapsed/Not Protected
Kind: n/a
Type of Mark: Word

Owner/s: **Taxis Australia Pty Ltd**
ACN/ARBN: 055008636
[see full address](#)
OAKLEIGH VIC 3166
AUSTRALIA

Address for Service: K&L Gates

[see full address](#)

MELBOURNE VIC 3000

AUSTRALIA

Goods & Services

Class 12: Motor vehicles for hire purposes

Class 39: Taxi services including taxi transport, taxi hire, and taxi booking and reservation services; services in this class provided by taxi operators, taxi fleets, and taxi industry; travel arrangements in relation to taxis; courier services

Before the:
LEADR – ASSOCIATION OF DISPUTE RESOLVERS
Level 1, 13-15 Bridge Street
Sydney NSW 2000

13 TAXI (Australia) Pty Ltd (ACN 109 598 950)

(Complainant)

-v-

Black Cabs Combined Pty Ltd (ACN 007 321 682)

(Respondent)

Case No:

auDRP_14_09

Disputed Domain Name:

<13taxi.com.au>

Annexure R8

IP Australia examination report dated 6 May 2002

6 May, 2002

MIDDLETONS LAWYERS
200 Queen Street
MELBOURNE
VIC 3000

Application No: 900411
Applicant: Taxi Australia Pty Ltd
Trade mark: 13 TAXI
Your ref: SH. 1726092

Examiner: Julie Michele CALLINAN

Report No. 1

Your trade mark application has been examined and the following attachments explain the matters which at present prevent the application from being accepted and, where possible, the ways in which you may be able to resolve the issues. You have until 6 August 2003 (15 months) in which to do so.

If there is anything which you would like clarified, please telephone the Examiner on the number below.

for 
REGISTRAR OF TRADE MARKS

Examiner's Telephone Contact: (02) 6283 7908

1. TRADE MARKS NOT CAPABLE OF DISTINGUISHING - SECTION 41

To be registrable, your trade mark must be capable of distinguishing your goods/services from the similar goods/services of other traders in the market place.

Your trade mark is not capable of distinguishing your goods/services because it consists of the descriptive word TAXI and the numeral 13. As such, the main feature of your trade mark is the numeral 13. Numerals are commonly used to indicate, amongst other things, size, quantity or quality. Other traders are equally entitled to use the numeral you have applied for to indicate their similar goods and or services. Although your trade mark contains other material, namely the descriptive word TAXI, this does not make the trade mark, as a whole, capable of distinguishing.

However, I may be able to reconsider this matter if you:

Provide evidence of use of your trade mark under sub-section 41(5).

Before deciding whether to provide evidence you should consider the following:

- *Evidence is usually in the form of a statutory declaration giving a history and indication of the extent of the use of your trade mark*
- *gathering and compilation of this material may be time-consuming and expensive*
- *the evidence you provide may still be insufficient to overcome the objection*

If you are uncertain as to the type of evidence that you will require, I invite you to telephone me to discuss the matter.

2. CONFLICTING TRADE MARKS - SECTION 44

To be registrable your trade mark must not be substantially identical or deceptively similar to an earlier filed trade mark for similar goods or closely related services.

Your trade mark is deceptively similar and/or substantially identical to the following earlier filed trade mark:

746660

I have enclosed details of the trade mark mentioned above.

However, I may be able to reconsider the objection if you:

Provide evidence of:

- a) prior use, or
- b) honest concurrent use, or
- c) any other relevant circumstances

Before deciding whether to provide evidence you should consider the following:

- *Evidence is usually in the form of a statutory declaration giving a history and indication of the extent of the use of your trade mark*
- *gathering and compilation of this material may be time-consuming and expensive*
- *the evidence you provide may still be insufficient to overcome the objection*

If you are uncertain as to the type of evidence that you will require, I invite you to telephone me to discuss the matter.

IP Australia

Trade Mark : 746660

Word: TAXI
Image: PALM LEAVES ON LTR T

Class/es: 39
Status: Registered/Protected
Kind: n/a
Lodgement date: 17/10/1997
Sealing date: 24/07/1998
Acceptance adv: 9/04/1998
Registered from: 17/10/1997
Registration adv: 13/08/1998
Renewal due: 17/10/2007

Owners: Mackay Taxi Holdings Limited
009-946-329
Victoria & Tennyson Streets
MACKAY 4740 QLD
AUSTRALIA

Address for service: CULLEN & CO
GPO Box 1074
BRISBANE
4001 QLD

Goods & Services:
Class: 39
Vehicle transportation; car transport; taxi transport

Endorsements:



746660

Before the:
LEADR – ASSOCIATION OF DISPUTE RESOLVERS
Level 1, 13-15 Bridge Street
Sydney NSW 2000

13 TAXI (Australia) Pty Ltd (ACN 109 598 950)

(Complainant)

-v-

Black Cabs Combined Pty Ltd (ACN 007 321 682)

(Respondent)

Case No:

auDRP_14_09

Disputed Domain Name:

<13taxi.com.au>

Annexure R9

IP Australia examination report dated 15 July 2002

15 July, 2002

MIDDLETONS LAWYERS
200 Queen Street
MELBOURNE
VIC 3000

Application No: 900411
Applicant: Taxis Australia Pty Ltd
Trade mark: 13 TAXI
Your ref: SH. 1726092

Examiner: Julie Michele CALLINAN

Report No. 2

Thank you for your letter of 24 May 2002. There are matters still outstanding and I have listed these in my report.

Replying to my report:

Please respond to **all** matters I have raised in the report.

Time allowed for acceptance:

The Trade Marks Act allows you until **6 August 2003** for the Registrar to accept this application. This is the final date before the application lapses. If this date is approaching and the application is still not in order, please allow us **at least three weeks** before this date to consider any correspondence from you.

Extensions of time:

If you require more time to finalise the application because of my delay in responding to your letter, I will sympathetically consider a request for a one month free extension of time when the final date approaches.

REPORT

Thank you for your letter of 24 May 2002. I have considered your submissions and agree to withdraw the Section 44 objection raised in the first report. I am, however, maintaining the Section 41 ground for rejection raised in the first report.

TRADE MARKS NOT CAPABLE OF DISTINGUISHING - SECTION 41

I have considered your submissions in relation to the trade mark's capability of distinguishing the services of the applicant. However, I do not agree that the mark is prima facie capable of distinguishing the services of the applicant from those of other traders in the market place.

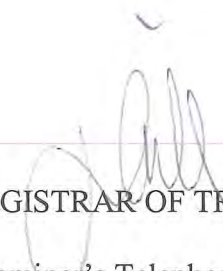
As mentioned in your letter, the *Australian Trade Marks Manual of Practice and Procedure* states in relation to the combination of numerals and letters "...However, if the combination has a specific meaning in relation to the services claimed, then grounds for rejection would need to be raised".

As the trade mark under examination is made up of the combination of the descriptive word TAXI and the numeral 13 and the services covered by this application include taxi services, the combination has a specific meaning in relation to the services claimed. Other traders offering TAXI services are likely to need to use this combination.

I note your reference to previously registered trade marks containing letters and numerals, however, none of the trade marks mentioned contain the prefix '13' and a descriptive word. It has also become common place for service providers to adopt a phone number beginning with the numerals 13 and followed by a descriptive word that can be spelled out on the buttons of a telephone. Other traders with a similar phone number are entitled to use these combinations.

As mentioned in my previous report, I may be able to reconsider this objection if evidence of use under sub-section 41(5) is provided.

Please contact me on the number below if there is anything that you would like clarified.


for
REGISTRAR OF TRADE MARKS

Examiner's Telephone Contact: (02) 6283 7908

Before the:
LEADR – ASSOCIATION OF DISPUTE RESOLVERS
Level 1, 13-15 Bridge Street
Sydney NSW 2000

13 TAXI (Australia) Pty Ltd (ACN 109 598 950)

(Complainant)

-v-

Black Cabs Combined Pty Ltd (ACN 007 321 682)

(Respondent)

Case No:

auDRP_14_09

Disputed Domain Name:

<13taxi.com.au>

Annexure R10

Email from Darren Borg to Bruno Macri dated 27 November 2003

From: Darren Borg <dborg@yellowcabs.com.au>
To: 'Bruno Macri' <bruno_macri@middletons.com.au>
Date: 27/11/2003 11:09:53 am
Subject: RE: 13CABS and 13TAXI trade marks

Bruno,

Attached is draft document. Just waiting for 2002-2003 revenue figure for Taxis Australia.

The trademark application relates to both 13 CABS and 13 TAXI. We have significant evidence of the use of 13 CABS and this is the focus of the information I have provided in the attached document.

13 TAXI is different. We have obtained the domain name 13taxi.com and 13taxi.com.au, but there is no real market presence yet as the 13 number representing 13 TAXI has not yet become available.

Please call to discuss once you have had a chance to review the attached.

Regards,

Darren Borg
Group Development
Black Cabs Combined
35 Downing Street,
Oakleigh. Victoria. 3166.
Phone: +61 3 9277 3426
Mobile: +61 400 107 807
Fax: +613 9569 5621
Web: www.yellowcabs.com.au

This email and any attachments transmitted with it are confidential. If you are not the intended recipient or person responsible for delivering the email to the intended recipient, you are prohibited from disclosing, copying or using the information contained in it. If you have received this email in error, please inform us by email reply and delete the message and attached documents. We use virus scanning software but exclude all liability for viruses or similar in any attachment.

Before the:
LEADR – ASSOCIATION OF DISPUTE RESOLVERS
Level 1, 13-15 Bridge Street
Sydney NSW 2000

13 TAXI (Australia) Pty Ltd (ACN 109 598 950)

(Complainant)

-v-

Black Cabs Combined Pty Ltd (ACN 007 321 682)

(Respondent)

Case No:

auDRP_14_09

Disputed Domain Name:

<13taxi.com.au>

Annexure R11

Copy of cover page and recitals of licence agreement dated 22 December 1993

DATED 22ND DECEMBER 1993

BETWEEN

TAXIS AUSTRALIA PTY LIMITED

(A.C.N. 055 008 636)

(TAXIS AUSTRALIA)

AND

BLACK CABS COMBINED LIMITED

(A.C.N. 007 321 682)

("THE LICENCED PARTY REFERRED TO AS "YOU")

LICENCE AGREEMENT

Before the:
LEADR – ASSOCIATION OF DISPUTE RESOLVERS
Level 1, 13-15 Bridge Street
Sydney NSW 2000

13 TAXI (Australia) Pty Ltd (ACN 109 598 950)

(Complainant)

-v-

Black Cabs Combined Pty Ltd (ACN 007 321 682)

(Respondent)

Case No:

auDRP_14_09

Disputed Domain Name:

<13taxi.com.au>

Annexure R12

Extracts from the file management system of the Respondent's solicitors

Annexure R12 - Extracts from the file management system of the Respondent's solicitors

Matter Number	Matter Description	Client Number	Client Name	Client Name 2	Matter Status	Billing Timekeeper	Inventory Manager	Joint Group
7368651.00008	13Cabs and 13Taxi TM Applications and IP Audit	7368651	Black Cabs Combined Pty Ltd		CL	Macri, Bruno	Watson, Anthony B	

Matter Name 01726092
Matter Description 13Cabs and 13Taxi TM Applications and IP Audit

Client Name Black Cabs Combined Pty Ltd
Client Name 2

Contact Name

Practice BILLABLE

Referred by
Department IP - Intellectual Property Litigation

Joint Bill ID
Date Opened 14/08/2001
Rate Code 1

Matter Number [7368651.00008](#)
Matter Status CL
Master Matter N
Client Number [7368651](#)

Billing Address

Before the:
LEADR – ASSOCIATION OF DISPUTE RESOLVERS
Level 1, 13-15 Bridge Street
Sydney NSW 2000

13 TAXI (Australia) Pty Ltd (ACN 109 598 950)

(Complainant)

-v-

Black Cabs Combined Pty Ltd (ACN 007 321 682)

(Respondent)

Case No:

auDRP_14_09

Disputed Domain Name:

<13taxi.com.au>

Annexure R13

Who Is search for the domain name www.13taxi.com



World-Class Data Center

 softlayer.com/data-center

World-Class Data Center for Location-Sensitive Data & Workloads



In an effort to combat the increasing abuse of this system, you must now enter the text shown in the image below in the **Code** field before submitting a query. There are no spaces. Lynx users (and others with a standard whois client) may wish to point their client at whois.geektools.com.

[Why did we do this?](#)



Enter Code: [\[Different Image \]](#)

Whois:

Checking server [whois.crsnic.net]

Checking server [whois.netregistry.net]

Results:

Domain Details

Domain Name: 13taxi.com
 Registry Domain ID: 104477864_DOMAIN_COM-VRSN
 Registrar WHOIS Server: whois.netregistry.com.au
 Registrar URL: http://http://www.netregistry.com.au

Updated Date: 3-Sep-2013
 Creation Date: 3-Oct-2003
 Expiration Date: 3-Oct-2014
 Registrar: Netregistry Pty Ltd
 Registrar IANA ID: 677
 Registrar Abuse Contact Email: <http://www.netregistry.com.au/contact-us/>

Registrar Abuse Contact Phone: +61 2 9934 0501
Reseller:
Domain Status: REGISTRAR-LOCK

Registrant ID: 425083
Registrant Name: Stuart Overell
Registrant Organization: 13CABS
Registrant Street 1: 35 Downing Street
Registrant Street 2:
Registrant Street 3:
Registrant City: Oakleigh
Registrant State/Province: VIC
Registrant Postal Code: 3166
Registrant Country: au
Registrant Phone: +61.392773721
Registrant FAX:
Registrant Email: domains@13cabs.com.au

Admin ID: 425082
Admin Name: Stuart Overell
Admin Organization: 13CABS
Admin Street 1: 35 Downing Street
Admin Street 2:
Admin Street 3:
Admin City: Oakleigh
Admin State/Province: VIC
Admin Postal Code: 3166
Admin Country: au
Admin Phone: +61.392773721
Admin FAX:
Admin Email: domains@13cabs.com.au

Tech ID: 425084
Tech Name: Stuart Overell
Tech Organization: 13CABS
Tech Street 1: 35 Downing Street
Tech Street 2:
Tech Street 3:
Tech City: Oakleigh
Tech State/Province: VIC
Tech Postal Code: 3166
Tech Country: au
Tech Phone: +61.392773721
Tech FAX:
Tech Email: domains@13cabs.com.au

Name Server 1: NS1.13CABS.COM
Name Server 2: NS2.13CABS.COM.AU

DNSSEC: Unsigned delegation

URL of the ICANN WHOIS Data Problem Reporting System: <http://wdprs.internic.net/>

>>> Last update of WHOIS database: 3-Sep-2013 <<<

---WHOIS details provided by Netregistry Pty Ltd.

NOTICE: Access to WHOIS information is provided to assist persons in determining the contents of a domain name registration record in the NetRegistry

registry database. The data in this record is provided by Net Registry for informational purposes only, and NetRegistry does not guarantee its accuracy. This service is intended only for query-based access. You agree that you will use this data only for lawful purposes and that, under no circumstances will you use this data to: (a) allow, enable, or otherwise support the transmission by e-mail, telephone, or facsimile of mass unsolicited, commercial advertising or solicitations to entities other than the data recipient's own existing customers; or (b) enable high volume, automated, electronic processes that send queries or data to the systems of Registry Operator or any ICANN-Accredited Registrar, except as reasonably necessary to register domain names or modify existing registrations. All rights reserved. NetRegistry reserves the right to modify these terms at any time. By submitting this query, you agree to abide by this policy.

Results brought to you by the GeekTools Whois Proxy
Server results may be copyrighted and are used with permission.
Proxy © 1999-2013 [CenterGate Research Group LLC](#)
Your host (202.177.218.75) has visited 7 times today.

Online File Sharing
Simple, Secure Collaboration for Business

★★★★
PC Magazine

FREE TRIAL

EGNYTE
Enterprise File Sharing

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Before the:
LEADR – ASSOCIATION OF DISPUTE RESOLVERS
Level 1, 13-15 Bridge Street
Sydney NSW 2000

13 TAXI (Australia) Pty Ltd (ACN 109 598 950)

(Complainant)

-v-

Black Cabs Combined Pty Ltd (ACN 007 321 682)

(Respondent)

Case No:

auDRP_14_09

Disputed Domain Name:

<13taxi.com.au>

Annexure R14

Email from Andrew Skelton to Ian Hickey dated 20 August 2004

-----Original Message-----

From: A Skelton [<mailto:askelton@yellowcabs.com.au>]

Sent: Friday, 20 August 2004 4:58 PM

To: Ian Hickey

Cc: Simon Purssey

Subject: 'Yellow'

Hi Ian

The door decal impressed at first sight and is still growing on us. We're keen to lock it in. I called earlier today to discuss how we go forward with the brand refresh now that we've selected the logo.

Logo

We want to use the 'yellow' logo as initially pitched by yourself and Andrew on the stationery and uniform.

We want to use the structure pitched by you yesterday on the cars.

Can you also design a font/layout for references to our website. We propose to include this on letterhead etc and as a stand alone sticker on the car bumper bars. The domains we can choose from include:

132227.com	132227.com.au	13cabs.com	13cabs.com.au	yel
lowcabs.com.au	taxi.com.au	13taxi.com	13taxi.com.au	

Cars

Please let me know if you need to retain the Falcon and Toyota doors to scale the logo etc.

Uniform

I have a uniform committee that is ready to get involved. If you can tell me what decisions we need to make before you can progress this aspect of the design I would be grateful.

I'm anticipating blue material and a uniform based on polo style shirts and polar fleece pullovers. We also want to use caps, ties and scarves.

Stationery

I have a list and example of every branded item of stationery that we currently use. I'm not sure if you need this but please let me know.

Launch

I would be grateful if your team could put some thought into how we could run an event (and repeat it once or twice at different times to suit different drivers) to launch the new brand. I would anticipate that we would get about 50 people at each event. We could spend up to about 20k on this and any savings would end up in the advertising fund.

Advertising

We currently advertise on FoxFM, MixFM, Magic693am, Sport927am, 3MPam and RPHradio (the news reading service for the vision impaired). If you are happy to review our strategy and propose an alternative coordinated by your agency please let me know what information you need me to collate. Most of the commitments expire in December. By the time we do the rebranding I'd expect to be capped at about 60k for advertising in the first 6 months of next year.

I would also be keen to consider a poster campaign in conjunction with radio if you think that is more effective (although I'm probably more comfortable sticking to radio at this stage).

Please let me know if you have any queries or require any further information at this stage.

Regards
Andrew

Andrew Skelton
13 CABS
ph 9277 3713
fax 9569 5621

Before the:
LEADR – ASSOCIATION OF DISPUTE RESOLVERS
Level 1, 13-15 Bridge Street
Sydney NSW 2000

13 TAXI (Australia) Pty Ltd (ACN 109 598 950)

(Complainant)

-v-

Black Cabs Combined Pty Ltd (ACN 007 321 682)

(Respondent)

Case No:

auDRP_14_09

Disputed Domain Name:

<13taxi.com.au>

Annexure R15

Printouts of ATMOSS searches for 13 TAXI trade mark applications

[Print](#)

My List Trade Mark Details

Trade Mark : 900411

Word: 13 TAXI
Image:
Lodgement Date: 16-JAN-2002
Lapsing Advertised: 29-JAN-2004
Class/es: 12, 39
Status: Lapsed/Not Protected
Kind: n/a
Type of Mark: Word

Owner/s: **Taxis Australia Pty Ltd**
ACN/ARBN: 055008636
[see full address](#)
OAKLEIGH VIC 3166
AUSTRALIA

Address for Service: K&L Gates
[see full address](#)
MELBOURNE VIC 3000
AUSTRALIA

Goods & Services

Class 12: Motor vehicles for hire purposes

Class 39: Taxi services including taxi transport, taxi hire, and taxi booking and reservation services; services in this class provided by taxi operators, taxi fleets, and taxi industry; travel arrangements in relation to taxis; courier services

Trade Mark : 1019427

Word: 13TAXI
Image:
Lodgement Date: 08-SEP-2004
Lapsing Advertised: 13-JUL-2006
Class/es: 39
Status: Lapsed/Not Protected
Kind: n/a
Type of Mark: Word

Owner/s: **13 Taxi Pty Limited**
[see full address](#)
SYDNEY NSW 2000

AUSTRALIA

Address for Service: Banki Haddock Fiora[see full address](#)

SYDNEY NSW 2000

AUSTRALIA

Goods & Services**Class 39:** Taxi transportation services including the hiring and booking of taxi cars and taxi trucks

Trade Mark : 1021000

Word: 130000TAXI
Image:
Lodgement Date: 17-SEP-2004
Lapsing Advertised: 08-JUN-2006
Class/es: 39
Status: Lapsed/Not Protected
Kind: n/a
Type of Mark: Word

Owner/s: **Whitech Pty. Ltd.**
ACN/ARBN: 086157360
[see full address](#)
SYDNEY NSW 2000
AUSTRALIA

Address for Service: Whitech Pty. Ltd.[see full address](#)

SYDNEY NSW 2000

AUSTRALIA

Goods & Services**Class 39:** Taxi transportation services including the hiring and booking of taxi cars and taxi trucks

Trade Mark : 1022403

Word: 13TAXI
Image:
Lodgement Date: 28-SEP-2004
Lapsing Advertised: 08-JUN-2006
Class/es: 39
Status: Lapsed/Not Protected

Kind: n/a
Type of Mark: Word

Owner/s: **13LIMO (Aust) Pty Ltd**
ACN/ARBN: 110845228
[see full address](#)
HIGHETT VIC 3190
AUSTRALIA

Address for Service: **13LIMO (Aust) Pty Ltd**
[see full address](#)
HIGHETT VIC 3190
AUSTRALIA

Goods & Services

Class 39: Transport

Trade Mark : 1030408

Word: 13TAXI
Image:
Lodgement Date: 19-NOV-2004
Lapsing Advertised: 13-JUL-2006
Class/es: 38, 39
Status: Lapsed/Not Protected
Kind: n/a
Type of Mark: Word

Owner/s: **Silver Top Taxi Service Limited**
ACN/ARBN: 004213969
[see full address](#)
MELBOURNE VIC 3000
AUSTRALIA

Address for Service: **Silver Top Taxi Service Limited**
ACN/ARBN: 004213969
[see full address](#)
MELBOURNE VIC 3000
AUSTRALIA

Goods & Services

Class 38: Telecommunications - radio and digital communication

Class 39: Transport - taxi, rent a car and hire

Before the:
LEADR – ASSOCIATION OF DISPUTE RESOLVERS
Level 1, 13-15 Bridge Street
Sydney NSW 2000

13 TAXI (Australia) Pty Ltd (ACN 109 598 950)

(Complainant)

-v-

Black Cabs Combined Pty Ltd (ACN 007 321 682)

(Respondent)

Case No:

auDRP_14_09

Disputed Domain Name:

<13taxi.com.au>

Annexure R16

Company and business name searches

13-TAXI AND 13-CABS AND 1-TAXIS

ASIC - National Business Names - Current & Historical Extract

Business Name Details

Business Name: 13-TAXI AND 13-CABS AND 1-TAXIS

Current Status: Cancelled

Former Status: Registered

Regulator: ASIC

Registered Date: 09/10/1997

Deregistered Date: 09/10/2003

Renewal Date: 09/10/2003

Former Registration Details: VIC 1352137U

Former Address for Place of Business

Address: 8 Avenza St
Mentone VIC 3194

Start Date: 09/10/1997

End Date: 09/10/2003

Former Address for Service of Notices

Address: 8 Avenza St
Mentone VIC 3194

Start Date: 11/12/2000

End Date: 09/10/2003

Former Holder Details

Name: OXFORD STREET INVESTMENTS PTY. LTD.

ACN: 068 133 102

Holder Type: Incorporated Body

Start Date: 09/10/1997

End Date: 09/10/2003

*** End of extract ***

This extract contains information derived from the Australian Securities and Investment Commission's (ASIC) database under section 60 of the Business Names Registration Act 2011. Please advise ASIC of any error or omission which you may identify.

13 TAXI PTY. LIMITED 110 869 826
ASIC - Current & Historical Extract - 13 TAXI PTY. LIMITED ACN: 110 869 826

This extract contains information derived from the Australian Securities and Investment Commission's (ASIC) database under section 1274A of the Corporations Act 2001.
Please advise ASIC of any error or omission which you may identify.

IDENTIFICATION

ACN: 110 869 826
ABN: 13 110 869 826
Current Company Name: 13 TAXI PTY. LIMITED
Registered in: New South Wales
Place of Registration:
Registration Date: 08/09/2004
Previous State Number:
Governance Type:
Review Date: 08/09/2014

CURRENT COMPANY DETAILS

Name: 13 TAXI PTY. LIMITED
Period from: 08/09/2004
Name Start: 08/09/2004
Status: REGISTERED
Type: AUSTRALIAN PROPRIETARY COMPANY
Class: LIMITED BY SHARES
Subclass: PROPRIETARY COMPANY
Disclosing Entity: N

Doc# 1E0254956

CURRENT COMPANY ADDRESS

Address Type: Registered Office
Address: EINFELD SYMONDS VINCE
LEVEL 18 CITY CENTRE
55 MARKET STREET
SYDNEY NSW 2000
Period from: 08/09/2004

Doc# 1E0254956

Address Type: Principal Place of Business
Address: EINFELD SYMONDS VINCE
LEVEL 18 CITY CENTRE
55 MARKET STREET
SYDNEY NSW 2000
Period from: 08/09/2004

Doc# 1E0254956

CURRENT COMPANY OFFICERS

Role: Director
Name: CUSACK, ANDREW QUINTON
Address: 4 MITCHELL ROAD
DARLING POINT NSW 2027
Date of Birth: 06/01/1975
Place of Birth: PADDINGTON NSW
Appointment Date: 08/09/2004
Cease Date:

Doc# 1E0254956

Role: Secretary
Name: CUSACK, ANDREW QUINTON
Address: 4 MITCHELL ROAD
DARLING POINT NSW 2027
Date of Birth: 06/01/1975

Doc# 1E0261645

Place of Birth: SYDNEY NSW
 Appointment Date: 08/09/2004
 Cease Date:

FORMER COMPANY OFFICERS

Role: Secretary
 Name: HOWE, MAREA ELLEN
 Address: 354 VICTORIA PLACE
 DRUMMOYNE NSW 2047
 Date of Birth: 11/10/1950
 Place of Birth: DARWIN NT
 Appointment Date: 08/09/2004
 Cease Date: 08/09/2004

Doc# 1E0261644

CURRENT SHARE CAPITAL

Class: ORD ORDINARY
 Number of Issued "Shares" : 1
 Amount Paid: \$1.00
 Amount Due: \$0.00

Doc# 1E0261646

Note: For each class of shares issued by a proprietary company, ASIC records the details of the twenty members of the class (based on shareholdings). The details of any other members holding the same number of shares as the twentieth ranked member will also be recorded by ASIC on the database. Where available, historical records show that a member has ceased to be ranked amongst the twenty members. This may, but does not necessarily mean, that they have ceased to be a member of the company.

FORMER SHARE CAPITAL

Class: REGR REGISTRATION
 Number of Issued "Shares" : 1
 Amount Paid: \$1.00
 Amount Due: \$0.00

Doc# 1E0254956

CURRENT(SHAREHOLDERS/MEMBER)

Class: ORD
 Number of Shares Held: 1
 Beneficially Owned: N
 Fully Paid: Y
 Name: AIRTREE PTY. LIMITED
 ACN: 089 883 349
 Address: LEVEL 18 CITY CENTRE
 55 MARKET STREET
 SYDNEY NSW 2000
 Joint Holding: N

Doc# 1E0261646

FORMER(SHAREHOLDERS/MEMBER)

Class: REGR
 Number of Shares Held: 1
 Beneficially Owned: Y
 Fully Paid: Y
 Name: CUSACK, ANDREW QUINTON
 Address: 4 MITCHELL ROAD
 DARLING POINT NSW 2027
 Joint Holding: N

Doc# 1E0254956

DOCUMENTS RELATING TO EXTERNAL ADMINISTRATION AND/OR APPOINTMENT OF CONTROLLER

Note: This extract may not list all documents relating to this status. State and Territory records should be searched.

No record

SATISFIED CHARGES

Note: On January 30, 2012 the Personal Property Securities Register (PPS Register) has commenced. The details of current charges will only be available from the PPS Register and the details of satisfied charges (as at 30th January 2012) can be obtained from ASIC. Further information can be obtained from www.ppsr.gov.au.

No record

ASIC DOCUMENTS (except charges)

Notes:

- A date or address shown as UNKNOWN has not been updated since the ASIC to over the records in 1991.
- Data from Documents with no Date Processed are not included in the Extract.
- Documents with "****" pages have not yet been imaged and are not available via DOCIMAGE. Imaging takes approximately 2 weeks from date of lodgement.
- Documents already listed under charges are not repeated here.

Form Type	Date Received	Date Processed	Effective Date	Pages	Doc No
484 Change to Company Details Appointment or Cessation of A Company Officeholder	09/09/2004	09/09/2004	08/09/2004	2	1E0261644
484 Change to Company Details Appointment or Cessation of A Company Officeholder	09/09/2004	09/09/2004	08/09/2004	2	1E0261645
484 Change to Company Details Changes to Share Structure Notification of Share Issue Notification of Share Cancellation - Redeemable Preferences Changes to (Members) Share Holdings	09/09/2004	09/09/2004	08/09/2004	3	1E0261646
484 Change to Company Details Appointment or Cessation of A Company Officeholder	09/09/2004	09/09/2004	08/09/2004	2	1E0264582
201 Application For Registration as a Proprietary Company	08/09/2004	08/09/2004	08/09/2004	3	1E0254956

PRE-ASIC DOCUMENTS

No record

ANNUAL RETURNS

No record

FINANCIAL REPORTS

No record

Before the:
LEADR – ASSOCIATION OF DISPUTE RESOLVERS
Level 1, 13-15 Bridge Street
Sydney NSW 2000

13 TAXI (Australia) Pty Ltd (ACN 109 598 950)

(Complainant)

-v-

Black Cabs Combined Pty Ltd (ACN 007 321 682)

(Respondent)

Case No:

auDRP_14_09

Disputed Domain Name:

<13taxi.com.au>

Annexure R17

Printouts of ATMOSS searches for the Complainant's lapsed trade mark applications

[Print](#)

My List Trade Mark Details

Trade Mark : 1056502

Word: 13TAXI = 138294
Image:
Lodgement Date: 23-MAY-2005
Lapsing Advertised: 07-DEC-2006
Class/es: 25, 38, 39
Status: Lapsed/Not Protected
Kind: n/a
Type of Mark: Word

Owner/s: **13 TAXI (Australia) Pty Ltd**
ACN/ARBN: 109598950

[see full address](#)

MELBOURNE VIC 3000
AUSTRALIA

Address for Service: **13 Taxi (Australia) Pty Ltd**

[see full address](#)

MELBOURNE VIC 3000
AUSTRALIA

Goods & Services

Class 25: Clothing, footwear, headgear

Class 38: Telecommunication services including the transmission of commercial and business information through the establishment of a telephone network; providing communication links between customers and taxi firms

Class 39: Transport services; taxi transportation services including the hiring and booking of taxi cars and taxi trucks; travel arrangements in relation to taxis including the provision of location identification details sufficient to enable taxi vehicles to be directed to the location of taxi passengers whose contact with that taxi service is through the 13 8294 (13 TAXI) telephone number

Trade Mark : 1056504

Word: ONE THREE TAXI
Image:
Lodgement Date: 23-MAY-2005
Lapsing Advertised: 07-DEC-2006
Class/es: 25, 38, 39
Status: Lapsed/Not Protected
Kind: n/a
Type of Mark: Word

Owner/s: **13 TAXI (Australia) Pty Ltd**
ACN/ARBN: 109598950
[see full address](#)
MELBOURNE VIC 3000
AUSTRALIA

Address for Service: **13 TAXI (Australia) Pty Ltd**
[see full address](#)
MELBOURNE VIC 3000
AUSTRALIA

Goods & Services

Class 25: Clothing, footwear, headgear

Class 38: Telecommunication services including the transmission of commercial and business information through the establishment of a telephone network; providing communication links between customers and taxi firms

Class 39: Transport services; taxi transportation services including the hiring and booking of taxi cars and taxi trucks; travel arrangements in relation to taxis including the provision of location identification details sufficient to enable taxi vehicles to be directed to the location of taxi passengers whose contact with that taxi service is through the 13 8294 (13 TAXI) telephone number

Trade Mark : 1056506

Word: CALL 13 TAXI
Image:
Lodgement Date: 23-MAY-2005
Lapsing Advertised: 07-DEC-2006
Class/es: 25, 38, 39
Status: Lapsed/Not Protected
Kind: n/a
Type of Mark: Word

Owner/s: **13 TAXI (Australia) Pty Ltd**
ACN/ARBN: 109598950
[see full address](#)
MELBOURNE VIC 3000
AUSTRALIA

Address for Service: **13 TAXI (Australia) Pty Ltd**
[see full address](#)
MELBOURNE VIC 3000
AUSTRALIA

Goods & Services

Class 25: Clothing, footwear, headgear

Class 38: Telecommunication services including the transmission of commercial and business information through the establishment of a telephone network; providing communication links between customers and taxi firms

Class 39: Transport services; taxi transportation services including the hiring and booking of taxi cars and taxi trucks; travel arrangements in relation to taxis including the provision of location identification details sufficient to enable taxi vehicles to be directed to the location of taxi passengers whose contact with that taxi service is through the 13 8294 (13 TAXI) telephone number

Trade Mark : 1056508

Word: DIAL 13 TAXI
Image:
Lodgement Date: 23-MAY-2005
Lapsing Advertised: 07-DEC-2006
Class/es: 25, 38, 39
Status: Lapsed/Not Protected
Kind: n/a
Type of Mark: Word

Owner/s: **13 TAXI (Australia) Pty Ltd**
ACN/ARBN: 109598950
[see full address](#)
MELBOURNE VIC 3000
AUSTRALIA

Address for Service: **13 TAXI (Australia) Pty Ltd**
[see full address](#)
MELBOURNE VIC 3000
AUSTRALIA

Goods & Services

Class 25: Clothing, footwear, headgear

Class 38: Telecommunication services including the transmission of commercial and business information through the establishment of a telephone network; providing communication links between customers and taxi firms

Class 39: Transport services; taxi transportation services including the hiring and booking of taxi cars and taxi trucks; travel arrangements in relation to taxis including the provision of location identification details sufficient to enable taxi vehicles to be directed to the location of taxi passengers whose contact with that taxi service is through the 13 8294 (13 TAXI) telephone number

Trade Mark : 1317159

Word: 13TAXI
Image:
Lodgement Date: 26-AUG-2009
Divisional Date: 05-NOV-2004
Lapsing Advertised: 21-JUL-2011
Class/es: 39
Status: Lapsed/Not Protected
Kind: n/a
Type of Mark: Word

Divisionals:

Divisional Number: 1028383

Divisionals: 1429314

Owner/s: **13 Taxi (Australia) Pty Ltd****ACN/ARBN:** 109598950[see full address](#)

CARLTON SOUTH VIC 3053

AUSTRALIA

Address for Service: Allens Patent & Trade Mark Attorneys[see full address](#)

MELBOURNE VIC 3001

AUSTRALIA

Goods & Services**Class 39:** Rail Transport services

Before the:
LEADR – ASSOCIATION OF DISPUTE RESOLVERS
Level 1, 13-15 Bridge Street
Sydney NSW 2000

13 TAXI (Australia) Pty Ltd (ACN 109 598 950)

(Complainant)

-v-

Black Cabs Combined Pty Ltd (ACN 007 321 682)

(Respondent)

Case No:

auDRP_14_09

Disputed Domain Name:

<13taxi.com.au>

Annexure R18

Website printouts for 1300 FLORIST, 1300 FLOWERS, 1300 ROSES ONLY and 1300 FAST FLOWERS



1300 florist

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Register

1300 356 747

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[All Occasions](#)
[About Us](#)
[Contact Us](#)

[Overseas](#)

Shop by Occasion

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- [Romance](#)
- [New Baby](#)
- [Thank You](#)
- [Just Because](#)
- [Congratulations](#)
- [I'm Sorry](#)
- [Sympathy](#)
- [Get Well](#)
- [Anniversary](#)

Flower Type

- [Bouquets](#)
- [Arrangements](#)
- [Boxes](#)
- [Baskets](#)
- [Roses](#)
- [Lilies](#)
- [Gerberas](#)
- [Orchids](#)
- [Natives](#)

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- [\\$60 - \\$80](#)
- [\\$80 - \\$100](#)
- [\\$100 And Above](#)

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<p>Lady</p> <p>\$67.00</p>	<p>Calypso</p> <p>\$64.00</p>	<p>Blossom</p> <p>\$89.00</p>	<p>Fandango</p> <p>\$92.50</p>

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Molly











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			 <small>10% OFF</small> <small>FREE CHOCS</small> <small>Save \$25.45</small> <small>vase not included</small> \$105.00	 <small>vase not included</small>
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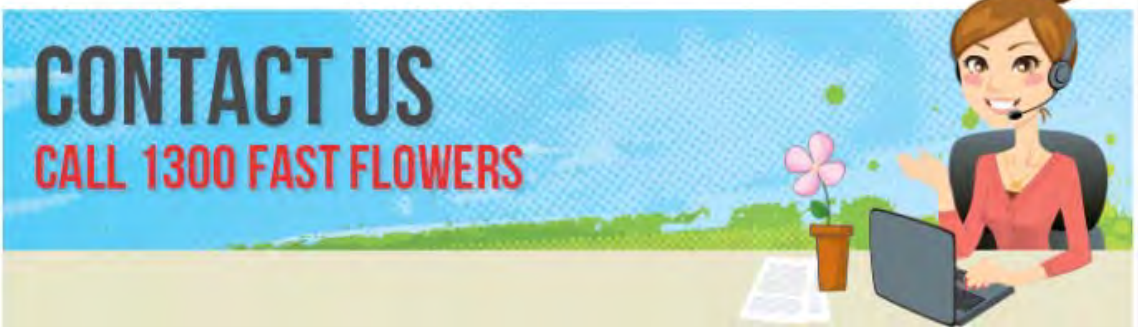
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- Romantic
- New Baby
- Get Well
- Sympathy
- Under \$70
- Just Because
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- Specials
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- Oriental Surprise
- Australian Palette
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- Baby Girl Seasonal Box

Occasions

- Flowers
- Birthday Flowers
- Florist
- Mothers Day Flowers
- Valentines Day Flowers

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Before the:
LEADR – ASSOCIATION OF DISPUTE RESOLVERS
Level 1, 13-15 Bridge Street
Sydney NSW 2000

13 TAXI (Australia) Pty Ltd (ACN 109 598 950)

(Complainant)

-v-

Black Cabs Combined Pty Ltd (ACN 007 321 682)

(Respondent)

Case No:

auDRP_14_09

Disputed Domain Name:

<13taxi.com.au>

Annexure R20

Printouts from the Australian Trade Marks Office Manual of Practice & Procedure

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14. New terminology and "fashionable" words

Language and its usage are constantly changing. There are many words used today which were not in vogue or did not even exist five years ago, or which have changed their meaning with the passage of time. Examiners should take this into account when assessing registrability of trade marks and should try to be aware of emerging trends in language usage.

For example, market interest in environmental issues has been characterised by use of words such as "Green" and "Ozone", and abbreviations such as "Enviro" and "Eco". These words on their own are the sort traders are likely to need to use and have no inherent adaptation to distinguish when used in relation to "environmentally friendly" goods or services. However, if combined with other words to form a combination that cannot be shown to be demonstrably needed by others, they will often be capable of distinguishing. Thus, *Enviroplumber* is likely to be *prima facie* capable of distinguishing plumbing services, whereas "Envirofriendly" is not. In assessing whether a proposed combination is demonstrably needed by other traders, examiners should have regard to current usage in the relevant trade. Internet searches may be used to assess current usage.

The popularity of new words or phrases is not restricted to the environment. Many areas including modern technology, the Internet, and fashion develop new language and new uses of existing language which quickly become generic.

14.1 E trade marks

With the increasing use and importance of electronic forms of communication, in particular the Internet, to conduct business and advertise goods and services, it has become increasingly commonplace for traders to adopt trade marks featuring the prefix "e". The prefix is commonly understood to mean "electronic" and it is often used, in combination with a word or phrase, to indicate goods which incorporate electronics or electronic technology or services provided by electronic means, that is, online or via the Internet. As such, a trade mark consisting only of the prefix "e" and a word or phrase which has a direct reference to the goods or services claimed will be considered to have little or no inherent adaptation to distinguish.

Examiners will need to consider if the material in the trade mark, apart from the prefix "e", has any inherent adaptation to distinguish. The presence of the prefix "e" in a trade mark is unlikely to add to the mark's registrability unless it is rendered in a very distinctive way.

For example, a ground for rejection would be raised against *e-toys* as a trade mark in respect of a broad claim for class 28 goods as it would be considered to have a reference to electronic toys. Similarly, it would have direct reference if the specified services were the retailing of toys.

Trade marks such as *e-commerce* for business services and *e-print* for printing services will be treated as having no inherent adaptation to distinguish, or insufficient to be capable of distinguishing.

However, if a trade mark consists of the prefix "e", and a word having no direct reference to the specified goods or services (such as *e-magic* – for non-magic related goods/services), or if the reference is allusory (such as *e-wonder*), then the trade mark will be accepted *prima facie*.

14.2 Domain names

A domain name is the address of an Internet site that allows the public access to the site and is typically a combination of standard address code material and an identifier. Standard address code material (such as "http://", "www.", "net", "org", "com", "shop" or "au" and punctuation symbols "~", "." or "/") points to directories, sub-directories and servers and is common to many domain names. An identifier may be an individual's name, an existing trade mark, a company name, a product name, a topic or any other combination of letters and numerals and is unique within any given domain name registration system.

In a domain name, it is the identifier which enables one domain name to be differentiated from another, and may lend a domain name some trade mark significance. In other words, it is the identifier which is the distinguishing element of a domain name, and this is the element which should be considered when assessing the inherent adaptability to distinguish of the domain name.

The identifier will be assessed in the same way as are all other trade marks. If it consists of a word, phrase or combination of letters and/or numbers which other traders would wish to use in the normal course of their trade, then grounds for rejection should be raised. An example of when grounds for rejection should be raised is the domain name *http://www.sydney.com*. Sydney is a well-known geographical location and should be available for other traders to use to indicate the origin of their goods and/or services. Similarly trade marks such as *smith.com* or *bestprice.com* should attract grounds for rejection as lacking inherent adaptability to distinguish as a surname or laudatory expression.

A section 43 ground for rejection will apply if the applicant for a trade mark containing material likely to be viewed as a domain name is not also the owner (or authorised user) of that domain name.

- Part 29 Trade Marks Likely to Deceive or Cause Confusion - [4.4 Marks suggesting endorsement, licence or approval](#)

14.3 Smart and Intelligent trade marks

The ordinary dictionary meanings of the words "smart" or "intelligent" should be taken into account when examining trade marks incorporating them, as should the surname significance of Smart. However, the words are now ones which many traders wish to use, particularly in relation to goods which utilise, or are a product of, modern technology. In relation to these goods the words are understood to mean that the goods have one or more of the following features in some form or degree:

- incorporate artificial intelligence
- are computerised or utilise processors or other mechanisms of control
- are programmable
- have automated functions
- are capable of processing information.

If the designated goods incorporate any of the features mentioned above, and the trade mark consists only of the word "smart" or "intelligent", then a ground for rejection should be raised.

If a trade mark consists of the word "smart" or "intelligent" combined with a word having some reference to the goods or services, then it is unlikely that it will be sufficiently inherently adapted to distinguish such that it can be accepted *prima facie*. For example, *smart lights* for lighting apparatus, or the same words in respect of

installation of lighting apparatus, would both lack the required adaptation, and grounds for rejection should be raised.

Trade marks consisting of the combination of a word that has some reference to the goods or services, followed by the word "smart" or "intelligent", will usually have sufficient inherent adaptation to distinguish and grounds for rejection will not be raised. For example, *light smart* used for either lighting apparatus or the installation of lighting apparatus will be acceptable.

14.4 Phonewords

Phonewords (or SMS words) include 1300, 1800, 13 and 197 phone numbers that are presented alphabetically using the letters of a telephone or mobile key pad (eg 1300 GROCER, 1800 RABBIT and 13 BAGS).

A section 43 ground for rejection will apply if the applicant for a trade mark containing material likely to be viewed as a phoneword is not also the owner (or authorised user) of that phoneword.

- Part 29 Trade Marks likely to Deceive or Cause Confusion - [4.4 Marks suggesting endorsement, licence or approval](#)

A section 41 ground for rejection will apply in relation to trade marks that simply consist of 13/1300/1800/197 and other descriptive or non distinctive elements (in the same way that those elements on their own would attract a ground for rejection). Examiners will need to consider if the material in the trade mark, apart from the 13/1300/1800/197 element, has any inherent adaptation to distinguish. For example, 1800 RABBIT is not considered to any extent inherently adapted to distinguish "the sale of pet rabbits" and s41 grounds for rejection would be appropriate.

The ground for rejection applies irrespective of whether the trade mark is a valid phoneword. Ownership or authorised use of the mark is not sufficient *on its own* to justify the withdrawal of the section 41 ground for rejection. However, if the owner has been using the phoneword for a sufficient period of time to have enabled it to acquire a secondary meaning indicating trade origin, evidence provisions may support acceptance of the mark.

Phonewords appearing in a composite mark containing additional distinctive elements will usually have sufficient inherent adaptation to distinguish and not attract a section 41 ground for rejection. For example:



This composite mark is considered to be *prima facie* capable of distinguishing in relation to the sale of pet rabbits (although a section 43 ground for rejection may apply).

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Effective Date: 15 March 2013

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4. Specific instances likely to trigger section 43

If the trade mark as a whole, or some obvious part of the trade mark, contains a connotation that would be likely to deceive or confuse a significant portion of the relevant market, then grounds for rejection should be raised. Trade marks offending against [section 43](#) are not particularly common, but there are some specific examples where grounds for rejection are more likely. These are noted in the following paragraphs.

4.1 Geographical indications for wine

For details of examination practice relating to class 33 applications see Part 32B.

- [Part 32B - Examination of Trade Marks for Wines \(in class 33\)](#)

4.2 Plant variety names

If a trade mark contains or consists of word/s which connote a particular plant variety or other plant name, and is applied to plants or plant materials of the same or a closely related genus, it is likely to deceive or cause confusion as to the true nature of those plants or plant materials and there will be grounds for rejection under [section 43](#) of the Act.

For details of practice in examination of applications for registration of trade marks covering plants and/or plant materials in class 31 see Part 32A.

- [Part 32A - Examination of Trade Marks for Plants \(in class 31\)](#)

4.3 International Non-Proprietary Names (generic names for pharmaceutical substances) and INN stems

INNs

In the 1950s the World Health Organisation (WHO) began a program of identifying each pharmaceutical substance by a unique, universally recognisable name to be known as an International Non-Proprietary Name or INN. The system aims to promote safety for health professionals and the public in the identification, prescription and dispensation of pharmaceutical substances throughout the world. The INN is effectively the generic name for the substance and therefore should be open for use by anyone in a descriptive context.

At regular intervals the WHO notifies member states of names to be protected. When examining trade marks, IP Australia is aware of the need to prevent use of INNs (and words that may connote an INN) in a manner that is likely to deceive or cause confusion.

The procedure for the selection, use and notification of INNs can be found in the WHO publication *International Non-Proprietary Names for Pharmaceutical Substances* available on the WHO website.

The INN list is included on the Trade Marks electronic database under the heading *Search For Pharmaceutical Names* (SFPN) and as a Search Tool on the ATMOSS

searching facility on the IP Australia website. The INN list shown there is updated periodically based on advice from the WHO.

INN stems

The INN system also governs the use of common, descriptive stems given to families of pharmacologically related substances (e.g. the word element "astine" for antihistamine preparations). Accordingly, improper use of an INN stem in a trade mark may lead to deception or confusion.

A list of INN stems has been developed with each stem relating to a particular group of pharmaceuticals. These stems (listed at [Annex 2](#) to this Part) should not be used in trade marks for pharmaceuticals or veterinary substances other than those indicated by the INN stem.

Examining trade marks containing INNs and INN stems

When examining applications for registration of trade marks in class 5 covering pharmaceuticals or veterinary substances, examiners should check the trade mark against the INN list using the Search for International Nonproprietary Names for Pharmaceutical Substances and the list of INN stems found at [Annex 2](#) in this Part of the Manual.

Grounds for rejection under [section 43](#) can apply to trade marks containing or consisting of INNs or INN stems (or trade marks that may connote an INN or INN stem) that are to be used in relation to pharmaceuticals or veterinary substances

4.3.1 Section 43 Grounds for rejection in relation to INNs

Grounds for rejection under [section 43](#) exist where a trade mark, or part of a trade mark, to be used in relation to pharmaceuticals or veterinary substances is the same as, or may connote, a notified INN and use of the trade mark in respect of the goods covered by the specification are not restricted to the particular substance indicated by the INN. Use of such a trade mark would be likely to give rise to deception or confusion.

Determining whether a non-identical trade mark connotes an INN will depend on the particular circumstances of the case. However, if a trade mark is an obvious derivation of an INN, a connotation is likely to exist. See *Aventis Pharma v Alphapharm Pty Ltd* (2005) 65 IPR 634 (TM ROXIMYCIN and INN ROXITHROMYCIN) and *Sanofi-Aventis v Eremad Pty Ltd* [2009] ATMO 97 (TM OXALATIN and INN OXALIPLATIN) where both were found to contain a connotation which would be likely to cause confusion or deception if the goods did not contain the drug specified in the relevant INN.

[Section 43](#) objections may be overcome by agreeing to a condition of registration limiting use of the trade mark when used in relation to pharmaceuticals or veterinary substances. The endorsement suggested by the Registrar in these circumstances is:

It is a condition of registration that any use in respect of <relevant goods> will be in relation to such goods containing the substance designated by the International Non-Proprietary Name <INN>

However such an endorsement is unlikely to assist in overcoming grounds for rejection which have been raised for other reasons (e.g. under [section 41](#) or [section 44](#) of the *Trade Marks Act 1995*).

4.3.2 Section 43 Grounds for rejection in relation to INN stems

Grounds for rejection under [section 43](#) exist where a trade mark to be used in relation to pharmaceuticals or veterinary substances consists of an INN stem, or contains a notified INN stem in a meaningful way, and use of the trade mark in

respect of the goods covered by the specification are not restricted to substances indicated by the INN stem. Use of such a trade mark would be likely to give rise to deception or confusion. Objections may be overcome by agreeing to a condition of registration limiting use of the trade mark when used in relation to pharmaceuticals or veterinary substances. The endorsement suggested by the Registrar in these circumstances is:

It is a condition of registration that any use in respect of <relevant goods> will be in relation to such goods containing substances belonging to the pharmacological group designated by the International Non-Proprietary Name stem <stem>

4.3.3 Meaningful INN stems

An examiner will need to consider whether the presence of an INN stem in a word is “meaningful” enough to give rise to a connotation leading to potential deception or confusion under [section 43](#).

Some INN stems consist of simple two or three letter combinations and their presence in a larger word may not be meaningful and as a result would not lead to deception or confusion. For example, the presence of ‘aj’ in the term ‘Sansajabendorastine’ is not significant enough to warrant objections given the length of the name and other competing references such as ‘astine’. By way of contrast the appearance of ‘aj’ in ‘tenaj’ would more clearly give rise to a section 43 ground for rejection. Other examples of INN stems included in a meaningful way include:

- -flurane **EXIFLURANE**
- -mycin **TRIPTOMYCIN**
- estr **PREMIUMESTREMAX**

In addition, a stem may not be included meaningfully in a trade mark where its presence is clearly overwhelmed by the meaning of the trade mark as a whole. Examples of INN stems **not** included in a meaningful way include:

- -ast **PAIN GOES FAST**
- -quin(e) **HAPPY EQUINE**
- som- **SOMALIAN ALOE**
- sal **SMILING SALLY**

In *Boehringer Ingelheim International GmbH* [2012] ATMO 117 (TM ZELCIVOL and INN-stem –OL), Hearing Officer Thompson discusses some general principles, in addition to those above, regarding INN-stem considerations. At 23 he states:

Where *most* of the following factors are present:

- a. The suffix is in common use other than in its INN-stem connotation, as evidenced by both the:

- i. state of the Register; and
 - ii. the marketplace
- b. The INN-stem is two or three letters long,
 - c. There are other or alternative obvious suffixes present in the trade mark. For example, ..., the trade mark KASAL might be viewed as having two alternative suffixes –SAL[4] or –AL (both of which are INN-stems)[5],
 - d. The INN-stem is non-specific - that is, in the context of the trade mark under consideration the INN-stem would not be generally apprehended as indicating only a particular kind of pharmaceutical because the 'prefix' does not conform with the usual formulation specific to the INN-stem under consideration,

the [section 43](#) ground should not be raised as it is unlikely that the use of the INN-stem would deceive or cause confusion.

[4] The part word 'Sal' has its own meaning in chemistry as indicating a salt.

[5] Respectively indicating either aldehydes or a salicylic acid derivative.

When deciding whether the presence of an INN stem in a trade mark is "meaningful" enough to give rise to a connotation leading to potential deception or confusion under [section 43](#) examiners need to consider **all of the above** (some of which may be obvious or determinable through research, whilst others may not be apparent during the course of initial examination).

4.4 Marks suggesting endorsement, licence or approval

4.4.1 Names of Persons

If a trade mark contains or consists of a name of a person (or group of people) which is well known in relation to the specified goods or services, the provisions of [section 43](#) may be triggered. Such names could consist of the given name, surname, combination of both or known nickname for the well known person (or group of persons).

For example, if an application is filed for the same name as that of a well known person, and the goods or services are clearly likely to be perceived by consumers as connected with or having the endorsement of the well known person, or that he or she is involved in the production of the goods or the supply of the services, the provisions of [section 43](#) may be triggered. Connections of this kind would exist between the name of a well known swimmer and "*swimming costumes*" or the name of a well known cricketer and "*cricket coaching services*".

In these situations if the application is submitted by the well known person or it is clear from other available information that the applicant has permission from the well known person or their representative to file for the well known persons name, no section 43 ground for rejection will ensue.

However, if the examiner is not satisfied that the relevant relationship exists between the applicant and the well known person referred to, grounds for rejection may be appropriate.

If the trade mark consists of or contains a name of a well known person and the application is in respect of goods and/or services outside the area that the

person is well known for, then careful consideration of several factors in combination, informed by research, is required.

Firstly, the examiner will have to consider whether consumers aware of a particular well known name are likely to see the name as referring to the well known person, rather than someone else with the same name. The more common the name, whether it is a given name, surname or combination of both, the less likely it is that consumers will make this assumption, as many well known people have names shared by many other people. Conversely, a highly distinctive and unusual name shared by very few people is more likely to be assumed by consumers to refer to the well known person.

Secondly, the particular field in which the name is well known is relevant. In today's market, consumers expect certain persons with a high profile or celebrity status to endorse a wide range of goods and services, often completely unrelated to the areas in which they are well known and/or have expertise.

Thirdly, consideration is required of the extent of connection between the field the name is well known for, and the goods and/or services specified. The closer the link between the goods or services and the particular field in which the name is well known, the more likely it is that consumers are going to assume a connection to the well known name exists.

While all the above factors are relevant, the question that the examiner must ultimately decide is whether the trade mark conveys a connotation that the goods or services have a connection with or approval of the well known person (s) to such a level that confusion or deception is likely to occur within the relevant sector of the public.

4.4.2 Images of Persons

The considerations applying to the names of well known persons also apply to images of those persons. Images can include photographs, portraits, cartoon caricatures and other stylised representations.

- Examiners should not *routinely* query the identity of the person appearing in the trade mark or raise a [section 43](#) ground for rejection merely because a trade mark contains the image of a person. They should only do so if they consider that the connotation discussed above is likely to arise.

4.4.3 Deceased Persons

Generally, no [section 43](#) ground for rejection will apply in respect of long deceased historical figures, even if they were well known from the same field as the specified goods and services are in. For example, the use of the name "W G Grace" (a famous cricketer whose career spanned from around 1860 to 1900) on *cricket bats* would be more likely to be regarded as a focus on a bygone era rather than a suggestion that there is any endorsement of, or input by, that person or their descendants.

However, if research indicates that the commercialisation of a deceased well known person's name or image is being controlled by their estate or another authorised entity then (unless that entity is the applicant) raising a [section 43](#) ground for rejection may be warranted, using the considerations as for living people above. This is because of the likely connotation that the estate endorses or otherwise has a connection with the specified goods and/or services. The more well known the person, and the more recently they died (especially if from the mid 20th century onwards), the greater the likelihood that such a situation exists. Often in such cases, research will reveal if an estate or entity are

controlling the use of the well known name, however, if no such control is apparent, objections should not be routinely taken.

4.4.4 Phonewords and Phone Numbers

Phonewords and SMS words include 1300, 1800, 13 and 197 phone numbers that are presented alphabetically using the letters of a telephone or mobile key pad (e.g. 1300 GROCER, 1800 RABBIT and 13 BAGS).

The licence to use a phoneword or SMS words is for the actual *numerals* forming the operational part of the phone number (not for the alphabetical segment). As such the licence to use the phoneword 13 BAGS lies in the number 13 2247.

A [section 43](#) ground for rejection will apply if the applicant for a trade mark containing material likely to be viewed as a phoneword, or the numbers representing a phoneword, *is not* also the owner (or authorised user) of that phoneword. For example, the following marks consisting of or containing material likely to be viewed as a phoneword would attract a [section 43](#) ground for rejection:

- **1800 RABBIT**
- **1800 722248**
- **1300 RABBIT**
- **1800 RABBITS 4 U**
- **1300 RABBITS 4 U**
- **1800 RABBITS ARE THE BEST PETS**
- **1300 RABBITS ARE THE BEST PETS**



- **13 BAGS**
- **13 2247**
- **13 BAGS 4 U**

The [section 43](#) ground for rejection will be reconsidered if an applicant provides information confirming that they are the owner or authorised user of the phoneword.

Other phone numbers which do not appear to represent a phoneword appearing in the trade mark should not be queried or researched specifically in respect of [section 43](#), unless other information before the examiner gives him or her particular reason to suspect that the applicant may not be the licensed user of the number.

4.4.5 Internet Domain Names

Internet domain names are unique names which are entered into a web browser's address field to locate resources/websites/web pages on the Internet. Internet domain names are typically a combination of standard address code material and an identifier. Standard address code material (such as "http://", "www.", "net", "org", "com", "shop" or "au" and punctuation symbols "~", "." or "/") points to directories, sub-directories and servers and is common to many domain names. An identifier may be an individual's name, an existing trade mark, a company name, a product name, a topic or any other combination of letters and numerals and is unique within any given domain name registration system.

The ownership of internet domain names is managed by various registrars, each accredited by either the Internet Corporation for Assigned Names and Numbers (ICANN) or a national country code top-level domain (ccTLD) authority.

A section 43 ground for rejection will apply if the applicant for a trade mark containing material likely to be viewed (ie in the normal format as shown below) as an Internet domain name is not also the owner (or authorised user) of that Internet domain name. For example, the following marks consisting of or containing material likely to be viewed as an Internet domain name would attract a section 43 ground for rejection:

Some indicative examples:

- www.example.com
- www.example.com.au
- example.net
- example.com/find_it_here
- http://www.example.net.au/



The section 43 ground for rejection will be reconsidered if an applicant provides information confirming that they are the owner or authorised user of the Internet domain name (including the date from which this ownership or authorised use started and any date after which it will cease).

4.4.5.1 Subdomains

A section 43 ground for rejection will apply if the applicant for a trade mark, containing material likely to be viewed as a subdomain name, is not the owner (or authorised user) of the higher level Internet domain name.

Some examples including subdomain names are:

- Topic.example.com
- Example.com/topic

In the above examples, “example.com” is the higher level domain name and “topic” is the subdomain. A section 43 ground for rejection will apply if the applicant is not the owner or authorised user of example.com.

4.4.5.2 Generic Top Level Domain Names

In 2011, ICANN introduced a new generic Top Level Domain (gTLD) program. This program means that in addition to the longstanding ‘EXAMPLE.CODE’ or ‘EXAMPLE.CODE.CC’ style domain names, brand owners can now apply for ownership of top level domain names in the form of simply ‘.EXAMPLE’.

Trade mark applications which contain material which appears to be a top level domain may have a connotation that

- i. the domain name is an *Internet Domain Name* or URL; and
- ii. that the applicant is the registrant of the domain, or be otherwise authorised to use that domain name/URL.

Such connotations are likely to deceive or cause confusion where the trade mark claims services in relation to *domain registry, telecommunications or information technology/computing* and the applicant is also not the owner (or authorised user) of that domain name. As such, [section 43](#) objections should be raised because the connotation within the trade mark is likely to deceive or cause confusion.

If a trade mark contains material in the form of .EXAMPLE, but it is not claiming *domain registry, telecommunications or information technology/computing services*, then the connotation in the trade mark would need to be considered in the context of the goods/services claimed before decisions regarding the likelihood to deceive or cause confusion in relation to [section 43](#) can be properly made.

4.4.6 Radio Call Signs and Frequencies

Radio call signs and frequencies are governed and administered by the Australian Communications and Media Authority (ACMA). People who want to operate a radio station have to apply to ACMA and are governed by their rules.

In Australia Radio call signs are quite specific, and indicate the state/territory and whether the frequency is AM or FM (two letters for AM, and three for FM).

Also, radio broadcasters who wish to apply for a license with ACMA to operate can choose a call sign, but if they do not then the ACMA provides one - and radio broadcasters don't choose the frequency (according to the ACMA's website this is chosen for the broadcaster by the ACMA). Every broadcaster/radio station has to use a different radio call sign.

Some examples of radio call signs are 1CBR, 2CA, 4CCR.

A [section 43](#) ground for rejection will apply if the applicant for a trade mark containing a radio call sign or frequency, in class 38 for broadcasting or related services, is not also the licensed owner/operator of a radio station with that radio call sign or frequency. This is because confusion would be created if the owner of the trade mark did not in fact have the license to operate with that radio call sign or frequency.

The [section 43](#) ground for rejection will be reconsidered if an applicant provides information confirming that they are the licensed owner/operator of the radio call sign or frequency.

Examiners will also need to consider raising a [section 41](#) ground for rejection in relation to any trade mark which could viewed as a radio call sign or frequency that simply consists of that material or with other descriptive or non distinctive elements.

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Effective Date: 01 October 2013

Before the:
LEADR – ASSOCIATION OF DISPUTE RESOLVERS
Level 1, 13-15 Bridge Street
Sydney NSW 2000

13 TAXI (Australia) Pty Ltd (ACN 109 598 950)

(Complainant)

-v-

Black Cabs Combined Pty Ltd (ACN 007 321 682)

(Respondent)

Case No:

auDRP_14_09

Disputed Domain Name:

<13taxi.com.au>

Annexure R21

Printouts from ATMOSSE history for Australian trade mark no. 1028383 13TAXI



Trade Mark History: 1028383

Amendment Date	Comment	Type
14-AUG-2014	Renewal of registration of Trade Marks	Advert
07-AUG-2014	Renew Trade Mark	Update
06-AUG-2014	Renewal of Registration (Electronic) - 1 Class	Correspondence
05-NOV-2013	Registration Status	Update
04-AUG-2011	Change of Owner's Address	Update
29-JUL-2011	Amend Trade Mark Registration Particulars	Correspondence
18-JUN-2011	Response Exam Services	Update
28-JAN-2010	Trade Marks Registered	Advert
08-JAN-2010	Register Trade Mark	Update
08-JAN-2010	Amend Status from Accepted	Update
17-SEP-2009	Accepted Applications for Registration of Trade Mark	Advert
17-SEP-2009	Accepted Applications for Registration of Trade Mark	Advert
16-SEP-2009	Registration fee (1 class)	Correspondence
03-SEP-2009	Clear Report - Approved	Report No. 6
03-SEP-2009	Clear Examination report approved	Update
03-SEP-2009	Class 39 Goods and Services	Update
03-SEP-2009	Class 38 Goods and Services	Update
03-SEP-2009	Class 25 Goods and Services	Update
31-AUG-2009	Exam Response	Correspondence
12-AUG-2009	Adverse Report - Approved	Report No. 5
12-AUG-2009	Approve further Adverse report	Update
07-JUL-2009	Stat Dec.	Correspondence
07-JUL-2009	Exam Response	Correspondence
16-JUN-2009	Extend acceptance date (was 13/06/2009)	Update
13-JUN-2009	Amend Status from Under Examination - Extension Fees Not Required	Update
12-JUN-2009	Extension of time	Correspondence
15-APR-2009	Adverse Report - Approved	Report No. 4
15-APR-2009	Approve further Adverse report	Update
01-APR-2009	Stat Dec.	Correspondence
01-APR-2009	Exam Response	Correspondence
26-MAR-2008	Adverse Report - Approved	Report No. 3
26-MAR-2008	Approve further Adverse report	Update
13-MAR-2008	Adverse Report - Approved	Report No. 2
13-MAR-2008	Amend Status from Under Examination - Extension Fees Required	Update
13-MAR-2008	Extend acceptance date (was 14/03/2008)	Update
13-MAR-2008	Approve further Adverse report	Update
05-MAR-2008	Exam Response	Correspondence
19-DEC-2007	Extend acceptance date (was 14/12/2007)	Update
14-DEC-2007	Extension of time	Correspondence
19-SEP-2007	Extend acceptance date (was 14/09/2007)	Update
14-SEP-2007	Amend Status from Under Examination - Extension Fees Not Required	Update

14-SEP-2007	Extension of time	Correspondence
29-JUN-2006	Terminate Deferral	Update
09-JUN-2005	Applications Amended	Advert
27-MAY-2005	Change of Owner's Name	Update
25-MAY-2005	Amend T/M Application particulars	Correspondence
02-MAR-2005	Deferment of Acceptance	Update
02-MAR-2005	Deferment	Correspondence
18-FEB-2005	Adverse Report - Approved	Report No. 1
18-FEB-2005	Amend Status from Indexing Approved	Update
18-FEB-2005	Acceptance date	Update
25-NOV-2004	Applications Filed	Advert
10-NOV-2004	Amend Status from Indexed	Update
10-NOV-2004	Amend Status from Filed - Approved	Update
09-NOV-2004	Approve Filing	Update
05-NOV-2004	New Trademark Application (multi-class)	Correspondence

Before the:
LEADR – ASSOCIATION OF DISPUTE RESOLVERS
Level 1, 13-15 Bridge Street
Sydney NSW 2000

13 TAXI (Australia) Pty Ltd (ACN 109 598 950)

(Complainant)

-v-

Black Cabs Combined Pty Ltd (ACN 007 321 682)

(Respondent)

Case No:

auDRP_14_09

Disputed Domain Name:

<13taxi.com.au>

Annexure R22

Printouts from ATMOSS for Australian trade mark application nos. 1317159 and 1429314.

[Print](#)

Trade Mark Details

Trade Mark : 1429314

Word: 13TAXI
Image:
Lodgement Date: 07-JUN-2011
Divisional Date: 26-AUG-2009
Lapsing Advertised: 24-JAN-2013
Class/es: 39
Status: Lapsed/Not Protected
Kind: n/a
Type of Mark: Word

Divisionals:

Divisional Number: 1317159

Owner/s: **13 Taxi (Australia) Pty Ltd**
90 Fergie Street
NORTH FITZROY VIC 3068
AUSTRALIA

Address for Service: Allens Patent & Trade Mark Attorneys
GPO Box 1776Q
MELBOURNE VIC 3001
AUSTRALIA

Goods & Services

Class 39: Transport services excluding rail transport services; taxi transportation services including the hiring and booking of taxi cars and taxi trucks; travel arrangements in relation to taxis including the provision of location identification details sufficient to enable taxi vehicles to be directed to the location of taxi passengers whose contact with that taxi service is through the 13 8294 (13 taxi) telephone number

Indexing Details - Word Constituents

13	13TAXI
NUM	TAXI

Indexing Details - Image Constituents

[Print](#)

Trade Mark Details

Trade Mark 1028383 has the following as a divisional mark

Trade Mark : 1317159

Word: 13TAXI
Image:
Lodgement Date: 26-AUG-2009
Divisional Date: 05-NOV-2004
Lapsing Advertised: 21-JUL-2011
Class/es: 39
Status: Lapsed/Not Protected
Kind: n/a
Type of Mark: Word

Divisionals:

Divisional Number: 1028383

Divisionals: 1429314

Owner/s: **13 Taxi (Australia) Pty Ltd**

ACN/ARBN: 109598950

PO Box 89

CARLTON SOUTH VIC 3053

AUSTRALIA

Address for Service: Allens Patent & Trade Mark Attorneys

GPO Box 1776Q

MELBOURNE VIC 3001

AUSTRALIA

Goods & Services

Class 39: Rail Transport services