

DISPUTE RESOLUTION SERVICE

D00014401

Decision of Independent Expert (Summary Decision)

Unlimited Web Hosting UK LTD

and

Mr A Hermann

1. The Parties:

Complainant: Unlimited Web Hosting UK LTD
Unlimited Web Hosting UK LTD
The Copper Room
Deva Centre
Trinity Way
Manchester
Manchester
M3 7BG
United Kingdom

Respondent: Mr A Hermann
Unit 12
Morehouse Business Park
Wivelsfield
West Sussex
RH17 7RE
United Kingdom

2. The Domain Name(s):

unlimited-webhosting.co.uk

3. Notification of Complaint

I hereby certify that I am satisfied that Nominet has sent the complaint to the respondent in accordance with paragraphs 2 and 4 of the Procedure. Yes No

4. Rights

The complainant has, to my reasonable satisfaction, shown Rights in respect of a name or mark which is identical or similar to the Domain name. Yes No

5. Abusive Registration

The complainant has, to my reasonable satisfaction, shown that the domain name unlimited-webhosting.co.uk is an Abusive Registration. Yes No

6. Other Factors

I am satisfied that no other factors apply which would make a summary decision unconscionable in all the circumstances. Yes No

7. Comments (optional)

The Complaint in this case was extremely brief. The principal reason for its failure is the lack of a demonstration of Rights in a name or mark which is identical or similar to the Domain Name (paragraph 2(a)(i) of the Policy).

Paragraph 2.2 of the Expert Overview (Version 2) indicates what a Complainant must prove:- the relevant right must be an enforceable right; bare assertions will rarely suffice. The Expert needs to be persuaded on the balance of probabilities that relevant rights exist.

Here, the Complainant appears to have confused the requirement to prove Rights with that of proving Abusive Registration. The Complainant has merely stated its grounds for considering that the Domain Name is an Abusive Registration in both the Rights and Abusive Registration sections of its Complaint.

As far as any claim to have Rights is concerned, the Expert can only glean from the Complaint an indirect reference to the Complainant's limited company name. This does appear to the Expert to be identical or similar to the Domain Name, however, that is not enough for the Expert to find that the Complainant has Rights in that name within the meaning of the Policy. See paragraph 1.7 of the Expert Overview (Version 2) regarding limited company names, which states that the consensus view of recent Experts' meetings has been that mere registration of a company name at the Companies Registry does not of itself give rise to any Rights for this purpose. The present Expert shares the consensus view.

With regard to the question of Abusive Registration, having failed to prove that it has Rights within the meaning of the Policy, the Complainant has consequently failed to prove to the Expert's satisfaction that any unfair advantage has been taken or unfair detriment caused to any such Rights.

8. Decision

Transfer	<input type="checkbox"/>	No action	<input checked="" type="checkbox"/>
Cancellation	<input type="checkbox"/>	Suspension	<input type="checkbox"/>
Other (please state)	<input type="checkbox"/>		

.....
.....
.....
.....
.....
.....
.....
.....

Signed:

Dated: 5 August, 2014.

Andrew D S Lothian