

**DISPUTE RESOLUTION SERVICE**

**D00015213**

**Decision of Independent Expert  
(Summary Decision)**

**F&C Management Limited**

and

**uri neufeld**

**1. The Parties:**

Lead Complainant: F&C Management Limited  
8th Floor, Exchange House  
Primrose Street  
London  
EC2A 2NY  
United Kingdom

Respondent: uri neufeld  
68 leaside crescent  
london  
barnet  
NW11 0LA  
United Kingdom

**2. The Domain Name(s):**

fandcs.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 fandcs.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 Complainant relies partly on passing off but the DRS is concerned with abusive registration, not passing off.

The Complainant also claims that that the Respondent had no legitimate reason to register the Domain Name and that use of the Complainant's trade mark within the Domain Name was a deliberate attempt to mislead consumers into believing that the Respondent was associated with the Complainant's business or to disrupt the Complainant's business. The Complainant relies principally on the fact that its trade marks predate registration of the Domain Name by 25 years and that it has a substantial reputation, extending beyond its core area of asset management to financial services.

There is no evidence that the Domain Name has ever been used for an active website.

The Complainant says it "understands" that the Domain Name is connected to a company called "Finance and Currency Limited" ("FCL"), of which the Respondent is a director, and that FCL operates at a website at [www.fandcfx.com](http://www.fandcfx.com) in relation to currency exchange and international payment services.

So, on the face of it, there is a plausible genuine reason for the Respondent to have registered a domain name including the term “fandc”, namely in connection with phrase “Finance and Currency” in FCL’s name and, possibly, an associated trading name also.

The Complainant has not addressed this important point. The Complainant does not acknowledge the potential link between the Domain Name and FCL, let alone put forward any argument or evidence to the effect that the selection of FCL’s corporate name might itself form part of some sort of abusive scheme vis-à-vis the Complainant. The Complainant has not provided any screenshot of the Respondent’s site at [www.fandcfx.com](http://www.fandcfx.com) - when I visited it, there was only a registrar holding page – nor any other information or evidence at all regarding the Respondent or its activities. Nor has the Complainant sought to address the fact that the Domain Name includes the letter “s” after “fandc”.

Furthermore there is no evidence in support of the Complainant’s claim that its reputation extends beyond its core area of asset management to currency exchange and international payment services, with which the Complainant says that the Respondent is associated.

The Complainant must prove its case on the balance of probabilities – see paragraph 2.1 of the DRS Experts’ Overview on Nominet’s website. And, paragraph 5.6 of the Experts’ Overview makes clear that, whether the Complainant seeks a full decision or a summary decision, it is still necessary for the Expert to be satisfied that the elements necessary to make a finding of Abusive Registration are present in a default case.

For the reasons explained above, I do not consider that the Complainant has provided sufficient evidence to establish abusive registration in the circumstances of this case, notwithstanding the lack of a response.

## 8. Decision

Transfer	No action	<b>X</b>
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Cancellation	Suspension	
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Other (please state)

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Signed: Adam Taylor

Dated: 27 January 2015