

# DISPUTE RESOLUTION SERVICE

**D00017927**

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

**Hööks Hästsport AB**

and

**Graham B Haynes**

## **1. The Parties:**

Complainant: Hööks Hästsport AB  
SE-501 77 Borås,  
Sweden  
Borås  
Sweden

Respondent: Graham B Haynes  
18 Ruskin Avenue  
herefordshire  
Swindon  
Wiltshire  
SN2 6NA  
United Kingdom

## **2. The Domain Name:**

hooks.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 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 is the owner of a European Trade Mark registration for the mark Hööks dated 18 November 2014. I therefore find that the Complainant has Rights in respect of the mark “Hööks” for the purposes of the Policy, and accept that this mark is similar to the Domain Name.

However, the Complainant has failed to prove, on the balance of probabilities, that the Domain Name is an Abusive Registration. The Domain Name comprises in its entirety (ignoring the generic .co.uk suffix) the word “Hooks”, which on the face of it is a generic English word. In cases such as these, the Experts’ Overview<sup>1</sup> gives guidance to a potential complainant on how to proceed. Specifically, paragraph 4.10 states as follows:

*“A helpful discussion is found in DRS 04884 (maestro.co.uk) where the Appeal Panel observed “Where a domain name is a single ordinary English*

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<sup>1</sup> The Experts’ Overview is a document put together by Nominet’s panel of Experts which deals with a range of issues that come up in DRS disputes and provides further guidance on the Policy and Procedure for the benefit of prospective DRS parties. It is published on Nominet’s website at: [http://www.nominet.uk/wp-content/uploads/2015/08/Expert\\_Overview.pdf](http://www.nominet.uk/wp-content/uploads/2015/08/Expert_Overview.pdf).

*word, the meaning of which has not been displaced by an overwhelming secondary meaning, the evidence of abuse will have to be very persuasive, if it is to be held to be an Abusive Registration under the DRS Policy”.*

The evidence provided by the Complainant in its Complaint shows that the Complainant uses its mark in the form “Hööks” in relation to its equestrian sports business, and only appears to use the mark in the form “Hooks” when it appears in a domain name (for example, in the domain name www.hooks.se, which is owned by the Complainant).

There is insufficient evidence before me to find that the Complainant has, through its use of its mark, displaced the ordinary meaning of the English word “Hooks” by an overwhelming secondary meaning. Further, the links provided on the website to which the Domain Name resolves appear to direct internet users to sites which relate to hooks in the ordinary English sense of the word, for example “Hooks and Eyes” and “Lifting Hooks”. In addition, the Respondent does not appear to have made any use of the Domain Name to link to, or promote, anything which specifically relates to the Complainant’s business of equestrian sports and related products. In order to succeed with its Complaint, the Complainant must show there has been some unfairness in the Respondent’s acquisition or subsequent use of the Domain Name with respect to the Complainant’s Rights . There is nothing before me to show that this applies in this case, either at time that the Respondent acquired the Domain Name, or through the Respondent’s subsequent use of the Domain Name.

Finally, it is, for this Complainant, unfortunate that it cannot include the Swedish character “ö” in the second level of .uk domain names. It has to however accept this and in filing a Complaint under the DRS it must make out its case on Abusive Registration with this in mind.

## **8. Decision**

I refuse the Complainant’s application for a summary decision. The domain name registration will therefore remain with the Respondent.

Signed: Ravi Mohindra

Dated: 25 October 2016