

DISPUTE RESOLUTION SERVICE

D00020814

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

Tahir Khan

and

Your Practice Online

1. The Parties:

Complainant:
Tahir Khan
Stanmore
United Kingdom

Respondent:
Your Practice Online
G.P.O Box 635
Sydney
Australia

2. The Domain Name:

tahirkhan.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 section 3 and 6 of the Policy.

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 tahirkhan.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)

This Complaint has failed because the Complainant has provided no supporting evidence, despite repeated warnings.

The gist of the brief Complaint is that the Respondent web developer registered tahirkhan.co.uk (“the Domain Name”) in connection with a contract to develop the Complainant’s professional (medical) website but then refused to release the Domain Name to the Complainant’s new developer.

When issuing the decision invoice, Nominet specifically warned the Complainant that there was a serious risk that a Complaint without supporting evidence could fail and directed him to the relevant part of Nominet’s website. Nominet also alerted the Complainant to the procedure for submitting a Further Statement under section 17 of the DRS Policy. The Complainant reacted by sending a document which effectively restated the Complaint but with no supporting evidence.

Nominet emailed the Complainant again, drawing his attention to section 1.8 of the DRS Experts’ Overview (“the Overview”) regarding the establishment of rights in personal names and noting that, by way of example, the

Complainant had failed to provide any form of identification, or a history of his professional career, or proof of his relationship with the Respondent web developer.

To which the Complainant responded only that he had signed no written letters of engagement as “it was all done verbally”.

As to rights, section 2.2 of the Overview further warns that “[b]are assertions will rarely suffice”. While in principle the Complainant might have been able to establish personal rights in his name, at the very least he ought to have supplied an identification document proving that he is indeed known by the claimed name – as Nominet warned. But he did not do so.

As to abusive registration, again disregarding Nominet’s warning, the Complainant has provided no documents evidencing his relationship with the Respondent. Even if there was no written contract, it seems unlikely that not a single document, be it an invoice or an email, was generated in the course of the Australia-based Respondent’s development of the Complainant’s site or the Complainant’s alleged request to the Respondent to release the Domain Name. And if there really was no such document, as a minimum the Complainant should have given a far more detailed account of his alleged dealings with the Respondent.

Without this evidence, and despite the lack of a Response, I am not in a position to conclude that on the balance of probabilities the Complainant has established either rights or abusive registration.

8. Decision

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

Signed: Adam Taylor

Dated: 14 January 2019