

DISPUTE RESOLUTION SERVICE

D00021261

Decision of Independent Expert (Summary Decision)

Boom Productions

and

Mr Andrew Medhurst

1. The Parties:

Complainant: Boom Productions
Flat 3
80 Eastern Esplanade
Cliftonville
Margate CT9 2JP
United Kingdom

Respondent: Mr Andrew Medhurst
12 Ashland Avenue
Wigan
Lancashire WN4 9SP
United Kingdom

2. The Domain Name: gemmacairney.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 gemmacairney.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

Complainant's Rights.

The Complainant has not submitted evidence in the conventional way, other than to provide a copy of her passport, establish that she is who she says she is. Registered trademark rights are not claimed. However, links are set out at the end of the Complaint document directing to sites containing examples of social media presence and print and television media coverage of the Complainant, using her own name rather than the company name in which this Complaint is brought. Exercising my discretion to view these pages, I conclude that the Complainant has traded under her own name to a significant degree, such that she has common law rights in a name which is identical to the Domain Name.

Abusive Registration

The Complainant reports incidents of confusion on the part of visitors to the Domain Name website.. While no evidence is provided in support of such confusion, the Complainant's claim is plausible, given her apparently high public profile and the likely reaction of consumers going to the Domain Name site in search of information about the Complainant and finding an online clothing site with no apparent connection to her. No explanation or justification has been forthcoming as to why the Respondent has chosen this Domain Name for this type of commercial activity. The site displays neither contact information for the site's operators nor a disclaimer statement relating to the use of this personal name in the Domain Name address. I conclude that there is, on the balance of probabilities, a likelihood that the Respondent is aware of the Complainant and is making unfair use of her name in the Domain Name.

8. Decision

I grant the Complainant's application for a summary decision. In accordance with section 12 of the Policy, the domain name will therefore be transferred to the Complainant.

Signed:

[Peter Davies]

Dated: 8 May 2019