

DISPUTE RESOLUTION SERVICE

D00010130

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

Reebok International Limited

and

ChenXiuQing

1. The Parties:

Lead Complainant: Reebok International Limited
4th Floor, 11-12 Pall Mall
London
SW1Y 5LU
United Kingdom

Respondent: ChenXiuQing
licheng
putian
FuJian
351100
China

2. The Domain Name(s):

mitchellandness.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 mitchellandness.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 was requested under para 13a of the Procedure to provide further evidence as to its rights being evidence of use of the name in the EU and/or the UK including but not limited to sales, accounts, turnover, information on suppliers/affiliates/network and customers and/or correspondence/orders/invoices. The Complainant responded that since July 2011, £300,000 worth of the Complainant's Marked Goods *had been shipped* from the Complainant's exclusive EU distributor to over 100 retailers around the EU. It did not say that these were sales. No evidence of sales or orders was provided. However the Complainant advised it has now received orders of £500,000 for anticipated distribution in September 2011 and anticipates further orders. Again no evidence was provided—and this is bare assertion. A photograph of a trade event and a list of stockists was provided (although how the list is to be reconciled with the information on shipments and sales above is not clear). Based on the above, I do not find unregistered rights.

The Complainant relies on a registered Community Trade Mark however (and therefore the grace period of five years and one day from registration in which to use the registered mark). However based on Annex 1, that Community Trade Mark is registered to an entity other than the Complainant—namely the Sports Licensed Division of the Adidas Group LLC, which seem to have acquired it from the Complainant in April this year. The Complainant therefore appears to have alienated the right it relies on.

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: Victoria McEvedy

Dated: 14/9/11