

DISPUTE RESOLUTION SERVICE

D00012834

Decision of Independent Expert

(Summary Decision)

Certainly Wood LLP

and

Andy Hugh

1. The Parties

Complainant: Certainly Wood LLP
Lower Lulham
Madley
Hereford
Herefordshire
HR2 9JJ
United Kingdom

Respondent: Andy Hugh
7 The Willows
Great Chesterford
Essex
CB10 1QL
United Kingdom

2. The Domain Name

<flamers.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 <flamers.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

The Expert finds that the Complainant has Rights in a name which is identical to the Domain Name, but is not satisfied that the Domain Name is an Abusive Registration.

The Domain Name was registered in 2004 and there is no evidence that the Respondent was aware of the Complainant at the time of registration (the Complainant only started to use the name three years ago). Thus abuse at the time of registration has not been proved.

As far as abusive use of the Domain Name is concerned, non-use alone does not demonstrate this without any additional factors. Trading in domain names is not automatically abusive, as set out at paragraph 4(d) of the Policy.

The Policy is intended to deal with abuse. Unfortunately for the Complainant the Policy is not something that may be used simply to resolve the situation when a domain name holder cannot be contacted.

8. Decision

No action

Signed: Jane Seager

Dated: 17 June 2013