

DISPUTE RESOLUTION SERVICE

D00013457

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

Wiluna Holdings, LLC

and

Mr Christopher Biz

1. The Parties:

Lead Complainant: Wiluna Holdings, LLC
2608 Marhill Drive
Wilmington
New Castle County, Delaware
19810
United States

Respondent: Mr Christopher Biz
Tarlac
Tarlac
Tarlac
2300
Philippines

2. The Domain Name(s):

clips4sale.me.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 clips4sale.me.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)

- While I have no doubt that the Complainant has Rights in a name or mark which is identical or similar to the Domain Name I have found the question of whether the Domain Name is in the hands of the Respondent an Abusive Registration more difficult given the fairly descriptive nature of the name or mark, "clips4sale";
- Knowledge by the Respondent of the Complainant's Rights is generally considered by Experts under Nominet's DRS to be a prerequisite for a finding of Abusive Registration;
- Here the Complainant could have gone further in proving that the Respondent had knowledge of the Complainant's Rights by for example providing details of how popular its site is;
- Given that the Complainant and the Respondent operate in the same industry and the Complainant appears to have been trading for a substantial period of time I have concluded that, on the balance of probabilities, the Respondent would have had knowledge of the Complainant's Rights and that the Domain Name is therefore an Abusive Registration.

8. Decision

Transfer	<input checked="" type="checkbox"/>	No action	<input type="checkbox"/>
Cancellation	<input type="checkbox"/>	Suspension	<input type="checkbox"/>
Other (please state)	<input type="checkbox"/>		

Signed: Nick Phillips

Dated: 18/12/13