

DISPUTE RESOLUTION SERVICE

D00014855

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

B Authentic Period Costume Hire Limited

and

Voirrey McDonald t/a B-Authentic

1. The Parties:

Lead Complainant: B Authentic Period Costume Hire Limited
Unit 13, Denard Industrial Estate
Tanyard Road
Milnsbridge
Huddersfield
West Yorkshire
HD3 4NB
United Kingdom

Respondent: Voirrey McDonald t/a B-Authentic
Longwood Edge Road
Huddersfield
HD3 4ZX
United Kingdom

2. The Domain Name(s):

b-authentic.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

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.

No

5. Abusive Registration

The complainant has, to my reasonable satisfaction, shown that the domain name b-authentic.co.uk is an Abusive Registration

No

6. Other Factors

I am satisfied that no other factors apply which would make a summary decision unconscionable in all the circumstances

Yes

7. Comments (optional)

On the evidence submitted and on the balance of probabilities, the expert considers that the Complainant does not have Rights in the Domain Name. Any goodwill in the Domain Name seems to have initially belonged to the B Authentic partnership between Mr Whitworth and Ms McDonald (and not either of the partners as individuals nor the Complainant). According to the Complainant the partnership was dissolved, albeit not formally, in 2014. However there is no evidence submitted as regards the basis for the Complainant owning any of the goodwill in the Domain Name and thus any Rights in it. The expert has read the explanation submitted by the Complainant under paragraph 13 b of the DRS Procedure for wishing to present evidence of the original ownership of registration of the Domain name by its website designer. She considers that she does not require to see that evidence as it would not affect the decision she has reached.

In the absence of such evidence as to who owns the goodwill as above or any agreement on that as between the parties, section 44 of the Partnership Act 1890 may be applicable. It states that on dissolution the partnership assets shall be divisible in the proportions in which profits are divisible (here 51% to Mr Whitworth and 49% to Ms McDonald). These assets may include the goodwill in the Domain Name. Thus it has not been established that the

Complainant has any Rights in the Domain Name. It follows also that it cannot be an Abusive Registration as it would seem that Ms McDonald may own a 49% share of the goodwill in it.

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"/>		

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Signed: GILL GRASSIE

Dated: 18/11/2014

