

**DISPUTE RESOLUTION SERVICE**

**D00018048**

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

Beau Arts

and

Global Internet

**1. The Parties**

Complainant: Beau Arts  
48 Maddox Street  
London  
Greater London  
W1S 1AY  
United Kingdom

Respondent: Global Internet  
Mbx 1391 London Road  
Leigh on Sea  
Leigh on Sea  
SS9 2SA  
United Kingdom

**2. The Domain Name**

beauxartslondon.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 beauxartslondon.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's complaint is short and its evidence limited. As this is a summary decision I have not set out in full the reasons for my decision. However, the main points that have influenced me are:

- The Complainant is 'Beau Arts'. However, under "*What rights are you asserting?*" the complaint says: "*We have been in business since 1974 as an art gallery promoting high quality mainly British artists and sculptors.*" The exhibit in support shows details from Companies House of Beaux Arts Limited which was incorporated on 24 October 1974. This indicates the Complainant was intended to be Beaux Arts Limited rather than 'Beau Arts'. There is also evidence that 'Beaux Arts' is a trading name of Beaux Arts Limited suggesting that 'Beau Arts' is a typographical error.
- The Complainant is defined in the Nominet Dispute Resolution Service Policy ("the Policy") as "*a third party who asserts to us the elements set out in paragraph 2.1 or, if there are multiple Complainants, the 'lead complainant'....*" Paragraph 18.1 of the Policy sets out that: "*The Expert will decide a complaint on the basis of the Parties' submissions and this Policy*". Taking into account my comments above I am prepared to treat Beaux Arts Limited as the Complainant. I do not consider this is prejudicial to the Respondent as this company was identified in the complaint under the assertion of Rights and the Respondent had the opportunity to respond.
- 'beaux arts' is a dictionary term whose meaning includes fine arts; 'london' is a geographic indicator. One dictionary definition of fine arts is those appealing to the mind or to the sense of beauty, as poetry, music, and especially painting, sculpture and architecture.
- Whilst there is evidence that 'Beaux Arts' is a trading name, the Complainant has not adduced evidence (for example of the type suggested in the Dispute Resolution Service – Experts' Overview) to demonstrate the existence of any unregistered rights in this mark.
- The Complainant says it took on the Domain Name over 20 years ago soon after opening its London branch and relies on past use of the Domain Name (the Domain Name was registered by the Respondent after the Complainant failed to renew it). The complaint says: "*In the past twenty years we have published thousands of catalogues and books for exhibitions of our artists until this year all are under our old domain name....We have eight exhibitions a year, all backed up with catalogues, brochures, cards that are mailed each time to over 1500 clients worldwide. In addition, there have been numerous newspaper and magazine articles and advertisements relating to our gallery and our artists all using this domain name.*"
- Although the evidence is limited, I am prepared to accept that there has been some trading by the Complainant using the Domain Name. Taking into account the "low threshold" approach to the question of Rights, the descriptive nature of "Beaux Arts London" and after weighing the evidence, I consider the Complainant has done just about enough to satisfy the first test of Rights. However, I have taken into account the limited evidence on Rights and the descriptive nature of "Beaux Arts London" when considering Abusive Registration.

- I do not consider, on the available evidence, there is an Abusive Registration.
  - I do not consider the Complainant has proved, on the balance of probabilities, that the Respondent was aware of the Complainant and/or its Rights at the time of registration of the Domain Name.
  - The Complainant has not adduced in evidence the Respondent's site at the Domain Name. The Expert's own enquiries show the Domain Name is currently being used for a site that provides information on artists, art and London and European art galleries.

**8. Decision**

I refuse the Complainant's application for a summary decision. The domain name registration will therefore remain with the Respondent.

Signed: Patricia Jones

Dated: 18 November 2016