

**DISPUTE RESOLUTION SERVICE**

**D00018392**

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

LifeShield Ltd

and

Whois Agent

**1. The Parties:**

Complainant: LifeShield Ltd  
Unit 3  
12 Emery Road  
Brislington  
Bristol  
Avon  
BS4 5PF  
United Kingdom

Respondent: Whois Agent  
2 Mayston Mews  
London  
London  
SE10 0LY  
United Kingdom

**2. The Domain Name:**

petshield.co.uk

**3. 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

**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

**5. Abusive Registration**

The Complainant has, to my reasonable satisfaction, shown that the domain name petshield.co.uk is an abusive registration

Yes

**6. Other Factors**

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

Yes

**1. 7. Comments (optional)**

The Complainant's trade mark is an unusual combination of words. It is identical to the Domain Name, which was registered on 16 November 2016. While the Complainant's trade mark did not reach the register until 14 December 2016, the Complainant's rights date back to 9 August, 2016, the date of filing, and the fact of the application would have been in the public domain before the Domain Name was registered.

In its pre-complaint letter to the Respondent the Complainant raises the possibility that the Domain Name registration is a case of cybersquatting. The Respondent indicated in reply that as there is no infringement of the Complainant's rights, it will not disclose the name of its principal, the underlying registrant of the Domain Name. In so doing the Respondent has denied the Complainant the opportunity of checking on the underlying registrant's position. How does the Respondent know that there is no threatened infringement?

However, the Respondent encourages the Complainant to pursue a complaint under the Nominet DRS, which the Complainant has now done. A reasonable expectation might be that a Response would be filed enabling the Complainant to review the position and triggering the Nominet mediation service, a service that Fasthosts recommended that the Complainant use. Somewhat extraordinarily, despite the pre-complaint correspondence, there has been no Response and therefore no scope for mediation.

The Expert has had to balance on the one hand the timing of the Domain Name registration against the Complainant's rights, which leaves scope for the registration of the Domain Name having been an innocent coincidence; and on the other hand, the identity of the trade mark/Domain Name (an unusual name) and combined with what can only be described as the perverse behaviour of the Respondent along with the absence of a Response. If the registration and planned use of the Domain Name is unobjectionable, it would have been so easy for the Respondent and/or the underlying registrant to come forward with a simple explanation by way of a Response in this proceeding, the very procedure the Respondent encouraged the Complainant to adopt.

In this most unsatisfactory situation, the Expert finds that the Respondent has a case to answer. In the absence of a Response the Expert infers (see paragraph 24.8 of the Policy) that the Respondent has no answer to the Complainant's suggestion that this is a case of cybersquatting and that the Domain Name should be transferred to the Complainant.

## **8. Decision**

I grant the Complainant's application for a summary decision. In accordance with section 12 of the Policy, the domain name will therefore be transferred to the Complainant.

Signed: Tony Willoughby

Dated: 22 February, 2017