

DISPUTE RESOLUTION SERVICE

D00019206

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

maxmoment interactive

and

LINDA ALCHIN

1. The Parties:

Complainant: maxmoment interactive
P O Box 442
Pymont
Australia
United Kingdom

Respondent: LINDA ALCHIN
Stafford Road
Croydon
Surrey
CR0 4NG
United Kingdom

2. The Domain Name:

maxmoment.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.

No

5. Abusive Registration

The Complainant has, to my reasonable satisfaction, shown that the domain name maxmoment.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

1. 7. Comments (optional)

The Nominet website provides ample assistance to complainants. To succeed in a complaint the complainant must produce some very basic evidence to support its assertions. See, for example, paragraph 2.2 of the Experts' Overview. The Complainant asserts the existence of an Australian trade mark registration, but fails to exhibit the registration certificate.

Overview paragraph 2.2 "What is required for a Complainant to prove that he/she/it "has rights" in paragraph 2(a)(i) of the Policy?

As indicated above, the relevant right has to be an enforceable right (i.e. a legally enforceable right). Bare assertions will rarely suffice. The Expert needs to be persuaded on the balance of probabilities that relevant rights exist. The Expert will not expect the same volume of evidence as might be required by a court to establish goodwill or reputation, but the less straightforward the claim, the more evidence the better (within reason - this is not an invitation to throw in the 'kitchen sink').

If the right arises out of a trade mark or service mark registration, a copy of the registration certificate or print out from the registry database will suffice together with, in the case of a licensee, evidence of the licence. If the Complainant can

demonstrate that it is a subsidiary or associated company of the registered proprietor, the relevant licence, if asserted, will ordinarily be assumed. [Appeal decision in DRS 00248 (seiko-shop.co.uk)].”

There is nothing in the Complaint to demonstrate that the Respondent registered or has used the domain name to target the Complainant.

8. Decision

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

Signed: Tony Willoughby Dated: 16 September, 2017