

DISPUTE RESOLUTION SERVICE

D00019523

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

Notting Hill Genesis

and

Sarah Balding

1. The Parties:

Complainant: Notting Hill Genesis
Notting Hill Genesis
Bruce Kenrick House
2 Killick Street
London
Greater London
N1 9FL
United Kingdom

Respondent: Sarah Balding
Hermitage Close
Chichester
PO20 1JZ
United Kingdom

2. The Domain Name:

nhg.org.uk (“the Domain Name”)

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 nhg.org.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)

Rights:

While the Complainant has established rights, I will comment briefly on this issue of because the weakness of its rights is relevant to the Complainant's failure under abusive registration.

In my view, the Domain Name is dissimilar to the Complainant's registered trade marks, which are for logos incorporating the terms "Notting Hill Housing" and "Notting Hill Sales" respectively. The Complainant's pending trade mark application for the "Notting Hill Genesis" logo is irrelevant (see paragraph 1.9 of the DRS Experts' Overview) - but also dissimilar to the Domain Name in my opinion.

As regards unregistered rights, the Complainant's name is "Notting Hill Housing Trust" (although strangely the Complaint was filed in the name "Notting Hill Genesis", which is described in the Complaint as a future proposed name in connection with an intended merger). In any case, there is

no evidence supporting the Complainant's claim that it has become "well known and established" under the name "NHG", said to be an abbreviation of "Notting Hill Group", itself an abbreviation of "Notting Hill Housing Group". The only evidence of the Complainant's actual use of "NHG" is for a website at www.nhg.co.uk which for many years has redirected users to its main website (changed from www.nottinghillhousing.org.uk to www.nhhg.org.uk after registration of the Domain Name). Although marginal, given that "rights" is a low threshold test, I consider that this just about suffices to establish rights.

Abusive registration:

Despite the lack of a Response, the Complainant must still establish the elements necessary for a finding of abusive registration. (See paragraph 5.6 of the Overview.) In my view, the Complainant has failed to do so. In particular, there is nothing to indicate that the Respondent registered the Domain Name with the Complainant in mind.

As mentioned above, the Complainant has not demonstrated any significant reputation in the name "NHG". There is no evidence that the Domain Name has been used in relation to the Complainant's area of activity (or indeed otherwise) since its registration on 23 March 2016. As a three-letter domain name, the Domain Name reflects what is likely to be a relatively common acronym, illustrated by the previous use of the Domain Name for a website about the "Northfleet History Group".

While correspondence to the Respondent's address has been returned, apparently because it is incomplete (missing a street number), that does not mean that this constitutes the supply of "false contact details" under paragraph 5.1.4 of the Policy. There is no indication that the Respondent acted in a deliberately evasive manner, which might have pointed towards abusive registration. Indeed, the Whois states that Nominet has been able to match the registrant's name and address against a third party data source.

Accordingly, despite the Respondent's silence, I consider that the Complainant has failed to provide evidence which convinces me, on the balance of probabilities, that the Domain Name is an abusive registration.

8. Decision

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

Signed: Adam Taylor

Dated: 5 January 2018