

# **DISPUTE RESOLUTION SERVICE**

**D00020765**

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

Life's a Breeze GB Ltd

and

Mark Adams

### **1. The Parties:**

Complainant: Life's a Breeze GB Ltd  
Unit 5 Gratton Court  
Gratton Way  
Roundswell Business Park  
Barnstaple  
Devon  
EX31 3NL  
United Kingdom

Respondent: Mark Adams  
3DWeb  
Kemp House  
152 City Road  
London  
EC1V 2NX  
United Kingdom

### **2. The Domain Names:**

lifesabreeze.co.uk  
lifesabreeze.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 names lifesabreeze.co.uk and lifesabreeze.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 evidence in support of its complaint is limited. For example while the Complainant explains how it sells products on-line, it has not provided any evidence of its turnover or of any promotional or advertising material nor does it explain how the Respondent uses the Domain Names. As this is a summary decision I have not set out in full the reasons for my decision but the main points that have influenced me are:

- I do not consider the Complainant has established, on the balance of probabilities, that the Respondent was aware of the Complainant and/or its Rights when the Domain Names were registered. In reaching this view I have taken into account:
  - 'LIFE'S A BREEZE' is a phrase which is used in the English language and it is credible that the Respondent registered the Domain Names without any knowledge of the Complainant and/or its Rights.
  - The Complainant has not adduced any evidence on the extent of its use of the 'LIFE'S A BREEZE' mark when the Domain Names were registered.
- There is no evidence of the Respondent's current or historic use of the Domain Names. My own enquiries show that the Domain Names currently route through to the Respondent's web site at 3dweb.co.uk advertising the Respondent's web design, hosting and domain services. There is no evidence that the Respondent has done something to take advantage of or to exploit his position once becoming aware of the Complainant's Rights. The Complainant says the Respondent offered to sell lifesabreeze.co.uk for £895, although it has not provided the correspondence in relation to the sale. Paragraph 8.4 of the Nominet Dispute Resolution Service Policy makes it clear that trading in

domain names for a profit is a lawful activity and that the Expert will review each case on its merits. In the circumstances of this case I do not consider the Respondent's offer to sell lifesabreeze.co.uk to the Complainant is an Abusive use of the Domain Names.

## **8. Decision**

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

Patricia Jones

28 November 2018