

DISPUTE RESOLUTION SERVICE

D00021367

Decision of Independent Expert

Gira UK Limited

and

Sturrock Research

1. The Parties:

Complainant: Gira UK Limited
6-9 The Square
Stockley Park
London
UB11 1FW
United Kingdom

Respondent: Sturrock Research
Unknown
Unknown
Unknown
A1 1AA
United Kingdom

2. The Domain Name:

gira.co.uk (the "Domain Name")

3. Procedural History:

On 03 May 2019 the dispute was received. It was validated on 08 May and notification of the complaint was sent to the parties. On 28 May a response reminder was sent. By 31 May no response had been received and notification of this was sent to the parties. On 06 June the Expert decision payment was received and the Expert – Tim Brown – was appointed on 11 June.

I can confirm that I am independent of each of the parties. To the best of my knowledge and belief, there are no facts or circumstances, past or present, or that could arise in the foreseeable future, that need be disclosed as they might be of a such a nature as to call in to question my independence in the eyes of one or both of the parties.

4. Factual Background

The Complainant is the United Kingdom subsidiary of a company located in Germany called "Gira". The Complainant was founded in March 2018. The Complainant says its German parent company is one of the leading full-service providers of intelligent system solutions for electronic and interconnected digital building management.

The domain name was registered by the Respondent in September 2002 and currently does not resolve to an active website.

5. Parties' Contentions

The Complainant's contentions are brief, and it is convenient to reproduce them in full below.

What rights are you asserting?

The company Gira (www.gira.de) is one of the leading full-service providers of intelligent system solutions for electronic and interconnected digital building management, based in Germany.

The Gira UK Ltd., the subsidiary for the United Kingdom, was founded in March 2018 and is based in Stockley Park, Uxbridge, Middlesex, United Kingdom, UB11 1BD. <https://beta.companieshouse.gov.uk/company/11161871>

Gira UK Ltd. wants to use the domain "www.gira.co.uk" for its internet presence. For the retrievability/visibility of our business, it is important that our company website can be quickly located by the UK customers, which are used to country top-level domain co.uk. Unfortunately, the domain is currently occupied.

Why is the domain name an Abusive Registration?

The domain owner of "gira.co.uk" does not use the domain, and is not reachable by mail, post or telephone. Attached you find a screenshot of the wayback machine which proves that the site is not in use.

Also the standard email addresses, such as info@gira.co.uk, or the named [redacted]@gira.co.uk are not reachable.

Therefore, we would like to have the domain transferred to our company.

The Complainant has exhibited several screenshots from archive.org showing that the website associated with the Domain Name has not been active for some time. Additionally, screenshots showing email being bounced back from the domain have also been exhibited.

The Respondent did not reply to these proceedings.

6. Discussions and Findings

According to paragraph 2 of the Policy a Respondent must submit to proceedings under the DRS if a Complainant asserts that it has Rights in respect of a name or mark which is identical or similar to the Domain Name; and that the Domain Name, in the hands of the Respondent, is an Abusive Registration. The Complainant is required to prove to the Expert that both elements are present on the balance of probabilities.

Turning firstly to the issue of Rights; while the Complainant has briefly referenced its parent company (and its website), the Complainant has asserted that it itself has Rights in the term

GIRA and has provided a link to its company registration at Companies House to support this contention.

The Complainant has not provided any further evidence to support its claims and therefore I have to rely on the company registration alone.

The Expert's Overview 3.0 is a document available on Nominet's website which gives useful guidance for complainants and respondents subject to DRS proceedings. Section 1.7 asks "Can a company name registration (per se) give rise to a right within the definition of Rights?" and answers:

The consensus view of recent Experts' meetings has been that mere registration of a company name at the Companies Registry does not of itself give rise to any rights for this purpose. An appeal panel in DRS 16594 (polo.co.uk) agreed with that approach.

From the Overview and the appeal decision in DRS 16594, it is clear therefore that the mere registration of company name is not enough to show that the Complainant has Rights under the terms of the Policy.

I therefore find that the Complainant has not met the threshold to demonstrate satisfactorily that it has Rights that are identical or similar to the Domain Name and its complaint must therefore fail.

For completeness I will also briefly consider whether the Domain Name, in the hands of the Respondent, is Abusive in terms of the Policy.

The Complainant has not explicitly suggested that the Respondent's registration is Abusive in terms of the Policy; merely that the Respondent does not use the Domain Name and is not contactable.

Registrants in the .uk space are under no obligation to use their domain names for web, email or other Internet services and failure to do so is not in and of itself Abusive. This is noted in the Policy under section 5.2 which says that "failure on the Respondent's part to use the Domain Name for the purposes of email or a web site is not in itself evidence that the Domain Name is an Abusive Registration."

While I can understand the Complainant's frustration in seeing a domain name that might be potentially useful to its business remaining unused, the Domain Name is clearly not Abusive in terms of the DRS Policy.

7. Decision

Having considered the Complainant's submissions, I conclude that the Complainant has not shown that it has Rights in respect of a name or mark that is identical or similar to the Domain Name. Equally, the Complainant has not demonstrated that the Domain Name, in the hands of the Respondent, is an Abusive Registration. I therefore direct that no action is taken regarding the Domain Name.

Signed

Dated 11 June 2019

Tim Brown