

DISPUTE RESOLUTION SERVICE

D00022358

Decision of Independent Expert (Summary Decision)

Buildplans Ltd

and

Buffalo Online

1. The Parties:

Complainant: Buildplans Ltd
Merryfields Star Corner
Colerne
Chippenham
Wiltshire
SN14 8DG
United Kingdom

Respondent: Buffalo Online
Silk Point
Queens Avenue
MACCLESFIELD
Cheshire
SK10 2BB
United Kingdom

2. The Domain Name:

buildplans.co.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

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 buildplans.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

7. Comments (optional)

Rights

Paragraph 2 of the Policy makes clear that the Complainant is required to prove to the Expert both (1) that the Complainant has Rights in respect of a name or mark which is identical to the Domain Name and, (2) that the Domain Name, in the hands of the Respondent, is an Abusive Registration.

Here, the Complainant's evidence of registration of a company under the name "BUILDPLANS LIMITED" does

not give rise to any rights with the Policy definition. DRS 16584 (appeal): polo.co.uk (no action). Moreover, the Complaint does not allege, and no evidence is adduced by the Complainant which might support a finding that the Complainant enjoys unregistered trade mark rights in or to the name BUILDPLANS.

The Complainant's evidence is insufficient to support a finding that the Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Name.

Abusive registration

The Complaint alleges that the Complainant's website "disappeared" and that Buffalo Online did not respond to the Complainant's attempts to communicate with the Respondent. Invoices from the Respondent to the Complainant annexed to the Complaint suggest only that the Complainant may have contracted with the Respondent, Buffalo Online, for web hosting services in connection with the Domain Name.

From the bare-bones allegations set out in the Complaint and very limited documentary evidence submitted by the Complainant, it cannot be determined whether the Domain Name may have been registered as a result of a contractual or other relationship between the Complainant and the Respondent within the meaning of Policy paragraph 5.1.5, which might evidence an Abusive Registration.

In the event, the view expressed by several Experts, and my own view in this case, is that as a general proposition contractual disputes are best left to the courts to resolve. See, e.g., DRS 0442: land1.co.uk (no action) ("Abusive Registration' is defined in §1 of the Policy as a domain name which was registered or acquired or which has been used in a manner which took unfair advantage of or was unfairly detrimental to the Complainant's rights. The rights referred to are the rights which the Complainant has in a name or mark which is identical or similar to the disputed domain name. In this case, the only rights established by the Complaint are the Complainant's contractual rights in respect of the domain name 'oneandone.co.uk' under Nominet's terms of registration."

The Complainant's evidence is simply insufficient to support a finding of 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:

A handwritten signature in blue ink, appearing to be 'Nancy M. [unclear]', written over a horizontal line.

Dated: 05 April 2020