

DISPUTE RESOLUTION SERVICE

D00017200

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

Muirhead Dental Care Ltd

and

Mr Atif Bashir

1. The Parties:

Complainant: Muirhead Dental Care Ltd
108 Cumbernauld Road
Muirhead
Glasgow
G69 9AA
United Kingdom

Respondent: Mr Atif Bashir
23 Heath Ave % % Lenzie
Glasgow
Lanarkshire
G66 4LG
United Kingdom

2. The Domain Name:

<muirheaddentalcare.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 paragraphs 2 and 4 of the Procedure.

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 muirheadentalcare.co.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 has not provided sufficient evidence to demonstrate that it has Rights for the purposes of the Policy. The mere registration of a company name does not in and of itself give rise to Rights, without evidence of unregistered or common law trade mark rights. Furthermore, based on the evidence provided, the Expert is unable to make a finding of Abuse. The Complainant states that the Respondent registered the Domain Name following the Complainant's sale of one of its practices to the Respondent, which, without additional evidence, could possibly mean that the registration was legitimate. As for abusive use, non-use alone cannot automatically be said to be abusive (see Policy, paragraph 3(vi)).

8. Decision

I refuse the Complainant's application for a summary decision. The Domain Name will therefore remain with the Respondent.

Signed: David Taylor

Dated: 9 May 2016