

DISPUTE RESOLUTION SERVICE**D00017809****Decision of Independent Expert
(Summary Decision)**

Lancaster School

and

Oscar Jordan

1. The Parties:

Complainant: Lancaster School
Prittlewell Chase
Westcliff-on-Sea
Essex
SS0 0RT
United Kingdom

Respondent: Oscar Jordan
48 Cassland Rd
London
London (City of)
E9 7AN
United Kingdom

2. The Domain Name:

lancaster-school-southend.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 lancaster-school-southend.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's complaint is short and the evidence submitted sparse. The Complainant has submitted a non-standard submission under paragraph 13b of the Nominet Dispute Resolution Service Procedure ("the Procedure"). The explanatory paragraph states that having read the summaries of previously declined complaints the Complainant realises that it has not provided enough information to allow the Expert to reach a proper decision. The Complainant says the new evidence is intended to better support the complaint and eliminate the need for the Expert to make assumptions. The Complainant stresses that this is the first time it has dealt with the DRS system and it is not experienced in matters relating to domain name ownership.
- Having considered the reasons given by the Complainant for the non-standard submission I do not consider there is an exceptional need for it and so have not requested to see it. As the Dispute Resolution Service – Experts' Overview states: *"The Procedure is intended to provide a satisfactory basis for expeditious and cost-effective resolution of domain name disputes within the ambit of the Policy. Unsolicited further statements from the parties tend to run counter to that intention. If one party is permitted to submit a further statement, the Expert will normally, in the interests of justice, permit an answering submission from the other party. The case gets weighed down with paper and delays ensue. Experts will normally require an explanation from the party wishing to submit an additional submission, justifying a departure from the prescribed procedure."* Nominet's web site contains much guidance and information on how to make a complaint which would have been available to the Complainant before the complaint was submitted. This is designed to help a party who has no prior experience of the DRS. I do not consider that the Complainant's wish to try to improve its case justifies a departure from the prescribed procedure.
- In accordance with paragraph 16 of the Procedure I have therefore made my decision based on the Complainant's submissions, the Nominet

Dispute Resolution Service Policy and the Procedure. I have also looked at the Complainant's web site which is referred to in an exhibit to the complaint and at the Respondent's web site which is referred to in the complaint. Paragraph 16 of the Procedure states that the Expert may (but will have no obligation to) look at any web sites referred to in the Parties' submissions.

- The question of Rights is not straightforward. As this is a summary decision I have not set out in full the reasons for my decision. However, the main points that have influenced me are:
 - The "low threshold" approach to the question of Rights and that as stated in paragraph 2.3 of the Dispute Resolution Service - Experts' Overview: *"The objective behind the first hurdle is simply to demonstrate a bona fide basis for making the complaint"*.
 - The considerations set out by the Expert in DRS 14563 (*The Commissioners for HM Revenue and Customs and Wes & Dave*) relating to whether a complainant which does not trade and which is not dependent upon financial support derived from goodwill that attaches to its activities is entitled to maintain an action for passing off.
 - That the Respondent has not responded to the complaint to deny Rights.
 - The Complainant's evidence that there is only one Lancaster School in Southend and that the Domain Name was used by the Complainant to host its web site for more than 10 years prior to February 2016.
 - The content of the web site at the Domain Name which gives the impression of being the Complainant's web site.

8. Decision

I grant the Complainant's application for a summary decision. In accordance with paragraph 5f of the Procedure, the domain name will therefore be transferred to the Complainant.

Signed: Patricia Jones

Dated: 28 September 2016

Patricia Jones