



**NOMINET**

**DISPUTE RESOLUTION SERVICE**

**D00019502**

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

***Mobilefun Limited***

and

***Mr Chris Rogers***

**1. The Parties:**

Complainant: Mobilefun Limited  
Mobilefun Limited  
Unit 16 Network Park Industrial Estate  
Duddeston Mill Road  
Birmingham  
UK  
B8 1AU  
United Kingdom

Respondent: Mr Chris Rogers  
7 Earlesfield  
Nailsea

Bristol  
BS48 4SF  
United Kingdom

**2. The Domain Name:**

mobilefun.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 name mobilefun.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 Expert has decided in favour of the Complainant. This is on the following basis: The Expert considers that here is no doubt that the Complainant has established Rights in a name which is identical or similar to the Domain Name. For example, the Complainant has a UK trade mark registration for effectively an identical name (minus suffix) Mobile Fun ("the Mark"). Also, the Complainant has established a basis for goodwill and reputation in the name Mobile Fun, given the existence of its website and that its company registration, in the name of Mobile Fun Limited, has been operative since 2000.

However, the Expert has found the position to be more finely balanced in relation to whether the Domain Name is an Abusive Registration. There is no evidence that the Respondent had prior knowledge of the Complainant or its Rights and no suggestion that the Complainant had contacted it to request transfer before filing this Complaint. On the other hand, the Domain Name is identical (minus the suffix) to the Mark and many of the Complainant's own Domain Names which include the Mark, eg mobilefun.co.uk mobilefun.com and thus it seems likely to the Expert that the Respondent may well have had prior knowledge of the Complainant before it registered the Domain Name. It did so on 26 September 2016 and thus at a time when the Complainant had been operating under the Mark for some 16 years thus it seems to have registered it with the primary purpose of selling it to the Complainant. Also, the price at which the Respondent is advertising the sale of the Domain Name, £599, is well in excess of the registration fee, £9.99. Furthermore the Respondent has had an opportunity to file its Response to the Complaint and has not opted to do so. In the circumstances and on the balance of probabilities the Expert finds that the Domain Name is an Abusive Registration. Transfer to the Complainant is ordered accordingly.

## 8. Decision

I grant the Complainant's application for a summary decision. In accordance with section 12 of the Policy, the domain name will therefore be transferred to the Complainant.

or

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

(Please delete as appropriate)

Signed: G GRASSI G

Dated: 19/12/2007