

DISPUTE RESOLUTION SERVICE

D00010223

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

John Galtrey t/a Clean Fresh

and

Mark Adams t/a 3DWeb Online Services

1. The Parties:

Lead Complainant: John Galtrey t/a Clean Fresh
9 Hassall Avenue
Wythington
Manchester
Greater Manchester
M20 1PG
United Kingdom

Respondent: Mark Adams t/a 3DWeb Online Services
3DWeb Online Services
Kemp House
125-160 City Road
London
EC1V 2NX
United Kingdom

2. The Domain Name:

cleanfresh.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 cleanfresh.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 term "Clean Fresh" is reasonably descriptive in nature. As a consequence, it is difficult for someone to build up strong legal rights in the name. To build up strong legal rights would require significant usage and promotion.

Under the Nominet Policy, the threshold for Rights is relatively low and, for this reason, I have been prepared to find that the Complainant has shown such Rights.

However, on the evidence submitted, the legal rights which the Complainant has in the name "Clean Fresh" are not particularly strong. The evidence is certainly not sufficient to demonstrate that the Complainant's "Clean Fresh" trading name would be known outside the business sector (cleaning services) and locality (Greater Manchester, Stockport and Cheshire) in which his business operates.

The Respondent is based in London and has no connection with cleaning services. As such, it is inherently unlikely that the Respondent would have been aware of the Claimant's Clean Fresh business, and no convincing evidence has been submitted by the Complainant to suggest the contrary.

In light of this, and the fact that it is credible that other people could independently have a bona fide interest in the term “Clean Fresh” (because of its descriptive nature), there is in my view insufficient grounds to conclude that the Domain Name is an Abusive Registration.

8. Decision

Transfer	<input type="checkbox"/>	No action	<input checked="" type="checkbox"/>
Cancellation	<input type="checkbox"/>	Suspension	<input type="checkbox"/>
Other (please state)	<input type="checkbox"/>		

Signed: Jason Rawkins

Dated: 4 October 2011