

DISPUTE RESOLUTION SERVICE

D00010862

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

Middlesbrough Empire 2008 Limited

and

Domain Names Direct

1. The Parties:

Lead Complainant: Middlesbrough Empire 2008 Limited
The Empire
Corporation Road
Middlesbrough
Cleveland
TS1 2RT
United Kingdom

Respondent: Domain Names Direct
Corporation Road
Middlesbrough
Teesside
TS1 2RT
United Kingdom

2. The Domain Name(s):

theempire.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 **theempire.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)

In this case the only ground for the Domain Name to be an Abusive Registration, would be under paragraph 3a(v) of the Policy, that:
"v. The Domain Name was registered as a result of a relationship between the Complainant and the Respondent, and the Complainant:
A. has been using the Domain Name registration exclusively; and
B. paid for the registration and/or renewal of the Domain Name registration."

The Domain Name, "theempire.co.uk", was registered on 25 May 1999. The nominal Complainant, Middlesbrough Empire 2008 Limited, was only established in 2008. Consequently, this Complainant could not possibly have had any relationship itself with the Respondent at the relevant time. Whatever legal entity was previously trading as "The Empire" in 1999 and prior to 2008 would presumably have had the required nexus and met the conditions v.A and v.B above. The present Complainant might have acquired relevant rights from that previous entity, but it has not provided any evidence of who the original contracting entity was, and how the present Complainant may now have the relevant rights.

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: Keith GYMER

Dated: 21 March, 2012