

DISPUTE RESOLUTION SERVICE

D00013776

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

De Ran Holdings Limited

and

Mr Salim Patel

1. The Parties:

Lead Complainant: De Ran Holdings Limited
De Ran Holdings Limited
c/o Nowtel
50 Shad Thames
London
SE1 2LY
United Kingdom

Respondent: Mr Salim Patel
11 Brooklyn Street
Bolton
BL1 3NG
United Kingdom

2. The Domain Name(s):

talkhome.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 talkhome.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 very much in the way of supporting evidence but I am satisfied on the balance of probabilities that it has Rights in a name or mark which is similar or identical to the Domain Name;
- I am not satisfied on the balance of probabilities that the Domain Name is in the hands of the Respondent an Abusive Registration. This is for the following main reasons;
 - The Domain Name was registered by the Respondent in 2007 and as far as I am aware has not been used by the Respondent;
 - Given that the Respondent has not done anything in with the Domain Name since registering it in 2007 then logically the only date that I can look at for the purposes of assessing Abusive Registration is the date of registration;

- Knowledge of the Complainant or its Rights by the Respondent is generally seen as being a pre-requisite to a finding of an Abusive Registration;
- While the Complainant says that it started trading under the brand talkhome in 2005 it provides no evidence of this and indeed all of the examples of the size of its business post date the registration of the Domain Name quite significantly;
- The name or mark, “talkhome” is not so unusual or distinctive this is a case where it can simply be said that the Respondent must have registered the Domain Name with the Complainant in mind;
- Given the fairly non distinctive nature of the Domain Name, how long ago the Domain Name was registered and the absence of any evidence from the Complainant of the fact that it was well known back in 2007 when the Domain Name was registered I do not find it possible to say that the Respondent must have been aware of the Complainant at the time of registration of the Domain Name;
- Paragraph 3b of the Policy makes it clear that a failure by the Respondent to use the Domain Name for the purposes of email or the website is not in itself evidence that 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: Nick Phillips

Dated: 5/3/2014