

**DISPUTE RESOLUTION SERVICE**

**D00014933**

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

**Tom Hartley Jnr Ltd**

and

**Identity Protect Limited**

**1. The Parties:**

Lead            Complainant: Tom Hartley Jnr Ltd  
                 Barratt Mill, Shortheath, Moira  
                 Swadlincote  
                 Derbyshire  
                 DE12 6BL  
                 United Kingdom

Respondent: Identity Protect Limited  
                 PO Box 795  
                 Godalming  
                 Surrey  
                 GU7 9GA  
                 United Kingdom

**2. The Domain Name(s):**

tomhartleyjnr.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 tomhartleyjnr.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 Complaint in this case is short (approximately 300 words). Although it has some supporting evidence, that is not referred to in the text of the Complaint, and in any event it appears to be related solely to showing that the Respondent has registered the Domain Name, and that the Complainant has asked the ISP involved to take action. The Complaint fails entirely to address the question of what Rights the Complainant has under paragraph 2.a.i of the Policy. There is no reference to a registered trade mark, and no attempt to explain the nature and extent of any unregistered rights, such as the degree of use of the name Tom Hartley Junior, or recognition by the Complainant's customers. Although this case is undefended, the Complainant still needs to prove its case on the balance of probabilities, which it has not done in respect of its Rights. The problems which arise from an inadequate Complaint are made clear to a Complainant in the Chairman's letter which this Complainant will have seen when lodging the Complaint. However, the Complainant apparently decided to proceed notwithstanding that. The Complainant very belatedly (after paying the fee for the case to be referred to an Expert) sought to add what its covering explanation describes as "additional research/further investigations" to "strengthen" its case. The Expert has decided not to view that further material in view of its lateness, and the failure to explain why it could not have been made available earlier. In any event, its description suggests that it would not be material to the issue of the Complainant's own Rights, which would hardly need

investigation/research by the Complainant, and which should have been addressed in the original Complaint. The Complaint therefore fails because the Complainant has not established that it has Rights under the Policy.

## 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: Bob Elliott

Dated: 1 December 2014