

DISPUTE RESOLUTION SERVICE

D00015413

Decision of Independent Expert

Derby City Council

and

Mr Ranmeet Ghuman

1. The Parties:

Complainant: Derby City Council
The Council House
Corporation Street
Derby
Derbyshire
DE1 2FS
United Kingdom

Respondent: Mr Ranmeet Ghuman
71 Inglewood Ave Mickleover
Derby
Derbyshire
DE3 0RU
United Kingdom

2. The Domain Name:

derbyarena.co.uk

3. Procedural History:

- 3.1 I confirm that I am independent of each of the Parties. To the best of my knowledge and belief, there are no facts or circumstances, past or present, or that could arise in the foreseeable future, that need to be disclosed as

they might be of such a nature as to call in to question my independence in the eyes of one or both of the Parties.

3.2 Timeline

06 February 2015 17:36 Dispute received
09 February 2015 13:08 Complaint validated
09 February 2015 13:37 Notification of Complaint sent to parties
26 February 2015 01:30 Response reminder sent
02 March 2015 13:21 Response received
02 March 2015 13:22 Notification of Response sent to parties
05 March 2015 01:30 Reply reminder sent
09 March 2015 10:45 Reply received
09 March 2015 10:46 Notification of Reply sent to parties
09 March 2015 10:46 Mediator appointed
12 March 2015 13:16 Mediation started
17 April 2015 15:12 Mediation failed
17 April 2015 15:31 Close of mediation documents sent
30 April 2015 02:30 Complainant full fee reminder sent
30 April 2015 09:01 Expert decision payment received

4. Factual Background

4.1 Derby Arena is a multi-use arena, comprising of an internal standard indoor cycle track, a sports hall, a gymnasium and event space for up to 5000 people.

4.2 A chronology of the Derby Arena is set out below:

- 2009: Plans commenced for the construction of a new velodrome and entertainment venue in Derby, UK (accompanied by an article on the BBC News website dated 15 December 2009)
- August 2011: Appointment of MACE as design team
- January 2012: Planning application for the new venue submitted (accompanied by a press release dated 4 January 2012)
- June 2012: Approval given to start work on Derby Arena (accompanied by a press release dated 28 June 2012)
- July 2012: Appointment of Bowmer and Kirkland as contractor
- November 2012: Work starts on Derby Arena site (accompanied by a press release dated 20 November 2012)
- April 2013: Steel frame complete
- October 2013: Sir David Brailsford visits Derby Arena
- April 2014: Olympic themed gold, silver and bronze cladding completed
- Late 2014: The main build of Derby Arena is completed
- Early 2015: Final opening of Derby Arena set to take place

- 4.3 The Complainant wholly owns and operates Derby Arena. Derby Arena is managed by Derby City Council's Culture Department (known as Derby Live).
- 4.4 The Domain Name was registered on 6 January 2012.

5. Parties' Contentions

The Complaint

- 5.1 The Complainant says that it is representing Derby Live. The Complainant contends that Derby Live manage several arts and entertainment venues in the city of Derby, hosting, producing and promoting hundreds of live events, performances and festivals each year as well as offering bespoke event support to other companies. The Complainant asserts that within the City of Derby, United Kingdom, Derby Live is recognised as the primary public events name for live events.
- 5.2 The Complainant asserts that it has rights to the Domain Name because the name "Derby Arena" has been used in advertising and press releases for a time prior to registration of the Domain Name by the Respondent. The Complainant says that there is only one arena in Derby, United Kingdom, which is the one operated by the Complainant.
- 5.3 The Complainant asserts that in 2009 it announced it was considering building an arena and that it is considered to be public knowledge that the Council was building such a venue as far back as 2009. To support this contention the Complainant has referenced in its Complaint a link to a BBC article about the arena dated 15 December 2009.
- 5.4 The Complainant issued a press release dated 4 January (two days before the Respondent registered the Domain Name) setting out news and information regarding the planning application for the Derby Arena (specifically referencing the "Arena"). Part of that press release states as follows:

"The Council's Project Manager, MACE Limited has submitted a planning application for the new multi-sport Arena on Pride Park.

The futuristic 14,500m² (156,000 sq ft) Arena is to be built next to Pride Park Stadium and will include:

- *A 250 metre indoor cycling track and 1.5km outdoor closed cycle circuit*
- *Fitness and wellbeing facilities*
- *A sports infield the size of 12 badminton courts*
- *Catering and hospitality facilities*

As well as offering a wide range of sports, the Arena has been designed with an audience capacity of 5,000 which will allow Derby to stage cultural events, exhibitions and conferences.”

- 5.5 The Complainant says that although there has been some historical reference to “Derby Velodrome”, the name “Derby Arena” has also been used in reference to the building since the early days of the project. The Complainant asserts that the name Derby Arena was used in all press releases and media campaigns that it released during the period of 2011 to 2014.
- 5.6 The Complainant contends that the Domain Name has not been used to host a website since it was first registered.
- 5.7 The Complainant believes that the Domain Name has been registered for the purpose of selling it to the Complainant. The Complainant does not have hard evidence of this, but it says that it was reported that an attempt to sell the domain was made to a previous member of Derby City Council staff. However, the Complainant no longer has a way to corroborate this.
- 5.8 The Complainant asserts that the registration of the Domain Name by the Respondent is already disrupting its business. The Complainant says that it is opening the venue in 2015 and the .co.uk / .uk variant is the natural domain to use for promotion of the venue. The Complainant says that it has built an alternative web presence for the venue, but that the Domain Name is the logical domain to host its website. The Complainant says that its website deployment plans are on hold, pending the availability of the Domain Name.
- 5.9 The Complainant contends that, according to a WHOIS search, the Respondent registered the domain name <derbyarena.com> a week after it registered the Domain Name. The Complainant believes that this <derbyarena.com> domain name was registered for the same disruptive purposes as the Domain Name.
- 5.10 The Complainant asserts that the Respondent has also registered the domain names <motorpointarenaderby.com> and <motorpointarenaderby.co.uk>. According to the Complainant, this could be seen as an attempt to pre-empt a sponsorship deal for the Derby Arena, with Motorpoint being a local car dealership that sponsors the nearby Sheffield Arena. The domain name <motorpointarenaderby.co.uk> is still registered to the Respondent as at the date of the Complaint. The Complainant adds that it has no plans for a sponsorship deal and is not seeking to dispute these particular domains referenced in this paragraph.

The Response

- 5.11 The Respondent believes that the Complainant never wanted to own the Domain Name. However, the Respondent says that he is unable to send copies of the email transcripts between himself and councillors Ranjit Banvait and the rest of the council (as evidence of his belief) due to server

issues. He refers to this server issue being resolved at the date of the Response but that he will require a little more time to gather all relevant information.

- 5.12 Since acquiring the Domain Name the Respondent says that he has spoken on the radio with Councillor Martin Robinson making it very clear that all he wanted to do was simply work with the Complainant, that he never wanted to sell the Domain Name, that he would build, maintain and run the website under the Domain Name at no cost to the Complainant and that he would split all revenue from the relevant website with the Complainant. The Respondent says that Martin Robinson responded that neither he nor the Complainant was interested in the various domain names that the Respondent owned.
- 5.13 Given this, the Respondent queries why the Complainant is now bringing this Complaint. The Respondent says that it is prepared to enter into discussion with the Complainant and resolve this matter amicably. He repeats that he will however require more time to get all of his emails and documents together.
- 5.14 Finally, the Respondent says that since his discussions with the Complainant he has been approached by a number of investors who are looking at wedding venues and are interested in the Domain Name. He says that this will all have to be taken into consideration moving forward.

The Reply

- 5.15 The Complainant says that it has no records of the emails or radio conversations that the Respondent refers to in his Response and that the elected member identified in the radio conversation – Councillor Martin Robinson – does not exist.
- 5.16 The Complainant says that of its staff, the only likely candidate that the Respondent is referring to, is Councillor Martin Repton (currently Cabinet Member for Adults & Health and previously Member for Leisure and Culture). The Complainant says that it has checked its media logs going back to January 2013 and cannot find any records of such a discussion (with the Respondent) taking place.

6. Discussions and Findings

General

- 6.1 The Complainant is required under paragraph 2(b) of the Policy to prove to the Expert, on the balance of probabilities, that:
- (i) the Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Name; and

- (ii) the Domain Name, in the hands of the Respondent, is an Abusive Registration.

Complainant's Rights

- 6.2 Paragraph 1 of the Policy provides that Rights means "*rights enforceable by the Complainant, whether under English law or otherwise, and may include rights in descriptive terms which have acquired a secondary meaning*". Rights may be established in a name or mark by way of a trade mark registered in an appropriate territory, or by a demonstration of unregistered so-called 'common law rights'.
- 6.3 Further, it is well accepted that the question of whether the Complainant has Rights falls to be considered at the time that the Complainant makes its Complaint and is a test with a low threshold to overcome.
- 6.4 In order to make out its case on Rights, the Complainant relies on (i) the fact that it owns, operates and, through its Derby Live department, manages a venue and business under the name Derby Arena, and (ii) its contentions that the name Derby Arena has been promoted in the press as a venue which it owns and will operate and manage (through its Derby Live Department) upon its opening in 2015. There is no evidence to suggest that the Complainant owns or has applied for registered trade mark rights in the term "Derby Arena", or anything similar.
- 6.5 Accordingly, insofar as Rights under the Policy are concerned this is a case where the Complainant is attempting to claim unregistered rights in the term "Derby Arena".
- 6.6 Where the Complainant is relying on unregistered trade mark rights to prove that it has Rights for the purposes of the Policy, paragraph 2.2 of the Experts Overview¹ states:
- "If the right is an unregistered trade mark right, evidence needs to be put before the Expert to demonstrate the existence of the right. This will ordinarily include evidence to show that (a) the Complainant has used the name or mark in question for a not insignificant period and to a not insignificant degree (e.g. by way of sales figures, company accounts etc) and (b) the name or mark in question is recognised by the purchasing trade/public as indicating the goods or services of the Complainant (e.g. by way of advertisements and advertising and promotional expenditure, correspondence/orders/invoices from third parties and third party editorial matter such as press cuttings and search engine results)."*
- 6.7 The Complainant's evidence in this regard is relatively weak. The Complainant has, by way of a link to an article on a news website by way of

¹ The Experts' Overview is a document put together by Nominet's panel of Experts which deals with a range of issues that come up in DRS disputes and provides further guidance on the Policy and Procedure for the benefit of prospective DRS parties. It is published on Nominet's website at: http://www.nominet.org.uk/sites/default/files/drs_expert_overview.pdf.

certain attachments to its Complaint, adduced evidence in the form of a media article dated 2009 which refers to the potential for a new multi-sport venue in the City of Derby and plans being put before the Complainant in 2010, as well as press releases from 2012 which link the Complainant to this new venue and a timeline of press events between August 2011 and April 2014 in relation to the Derby Arena venue prepared by the Council's press office. A number of these press releases refer to this new multi-sport venue being built in the City of Derby as the "Arena". None of this evidence has been challenged by the Respondent.

- 6.8 The question therefore arises as to whether this evidence is sufficient for the Complainant to establish, on the balance of probabilities, that it has Rights for the purposes of the Policy.
- 6.9 In this regard, this decision raises two important issues which need to be considered in order to make a determination on the question of Rights. The first is whether the Complainant needs to be trading under the name in which it asserts it has Rights in order to establish that the Complainant has rights that are enforceable by the Complainant, whether under English law or otherwise (as per the definition of Rights under the Policy). The second is the nature and extent of those rights where the primary signification of the name or mark in question is geographical.
- 6.10 Both of these issues have been considered and dealt with at length in the Nominet DRS decisions D00014563 (*inland-revenue.org.uk*) and D00010693 (*buxtonspa.co.uk*) respectively.

Trading or Non-Trading

- 6.11 The Complaint appears to have been brought prior to the public opening of the venue known as "Derby Arena". The Complainant asserts that the opening of the "Derby Arena" is set to take place in early 2015. The Complainant has not submitted any evidence, either by way of (for example) articles, press releases or links to websites which show the venue in question as being open for public use as at the date of the Complaint – and therefore as at the date that it needs to establish Rights in order to be successful under this DRS proceeding.
- 6.12 Had the Complaint included such evidence to show that the venue had in fact opened and was being used by the public as a multi-sport arena that the Complainant contends it is being built for, then, given the unchallenged evidence put forward by the Complainant of its interest in the venue (namely as owner, operator, and, through its Derby Live function, manager of the venue), I would have had no hesitation at that point in finding that the Complainant was trading under the name Derby Arena in which it asserts it has Rights.
- 6.13 The evidence that the Complainant has in fact submitted in its Complaint which goes to the question of Rights relates only to press releases and media articles referencing the new multi-sports facility that is being built in the Derby area. Can the Complainant in this case therefore establish that it

has enforceable rights on the basis of its contentions and the supporting evidence?

- 6.14 In this respect I refer to the decision in the case of The Commissioners for *HM Revenue and Customs v. Wed & Dave* [2014] DRS 00014563, domain name <inland-revenue.org.uk>. The Complainant in that case relied exclusively on common law rights in the name “Inland Revenue” and submitted that these rights were enforceable by it in English law under the tort of passing off. There was no suggestion however that the Complainant was ‘trading’ in the conventional sense of the word.
- 6.15 In his decision in that case the Expert set out a very clear and helpful analysis of the law of passing off and considered whether a Complainant who could not be said to be trading and who is not dependent upon financial support derived from goodwill that attaches to its activities could still establish the requirement for there to be some protectable goodwill in order to succeed in an action for passing off. The Expert also considered and referenced a number of previous decisions under the Policy which concerned the issue of a non-trading Complainant.
- 6.16 In particular, the Expert concluded that whilst he believed there was a doubt that the Complainant could maintain an action for passing off, he was not able firmly to conclude that it would be unable to do so. He also noted that the Respondents had made no representation that the Complaint should be denied on this (or indeed any other) basis. He also bore in mind the “low threshold” approach to the question of Rights and had no doubt that the Complainant had a *bona fide* basis for bringing the Complaint.
- 6.17 Applying the considerations of the <inland-revenue.org.uk> case to the one before me now, I also conclude that the Complainant has a *bona fide* basis for bringing its Complaint. In light of the promotion by the Complainant through the press of the venue known as Derby Arena during the process of preparing, planning and constructing the venue and linking that venue to the Complainant, and the likely standing and knowledge of the venue amongst, in particular, residents of the city of Derby in the UK (particularly as a result of the press releases issued by the Complainant from 2012 onwards), it is at least arguable that as at the date of the Complaint the Complainant may be able to establish reputation and goodwill in the name “Derby Arena” for a multi-sport venue in Derby, UK, albeit that such goodwill is likely to be limited given the fact that the venue promoted as “Derby Arena” does not appear to have been, as at the date of the Complaint, open for business.
- 6.18 In the event that another party misrepresents that it is the Complainant, or somehow connected with the Complainant and its business in relation to the “Derby Arena”, the Complainant is liable to suffer damage to that goodwill (albeit where such goodwill is limited as at the date of the Complaint) by way of damage to its reputation and investment in the facility known as “Derby Arena”.

- 6.19 Further, the Respondent in this case (like the Respondent in the case concerning the domain name <inland-revenue.org.uk>) has not challenged the Complainant's ability to establish Rights, nor has he denied that the Complainant is entitled to Rights under the Policy.
- 6.20 Accordingly I find that on the balance of probabilities the Complainant has Rights in the name "Derby Arena" at the time that it made its Complaint. I repeat that in doing so, I bear in mind the "low threshold" approach to the question of Rights as mentioned above and am satisfied that the Complainant has a standing to bring the Complaint.

Nature and Extent of Rights

- 6.21 In *High Peak Borough Council v. Neil M Scowcroft* [2012] DRS 00010693, domain name <buxtonspa.co.uk>, the Expert stated the following:
- "This decision raises a central and difficult issue. Whilst there is no doubt that the Complainant has Rights, the real question here is the nature and extent of those rights. The rights subsist in a trade mark whose primary significance is geographical. Indeed, in many cases it would be misleading to apply the mark Buxton or the mark Buxton Spa to goods or services not originating in the Buxton area. Thus, to apply the mark Buxton to mineral water not drawn from the Buxton spring would clearly be a misleading use of the mark. Equally however, a trader who is located in Buxton and provides goods or services from there may wish to use the name Buxton or Buxton Spa to characterise his goods. Can the Complainant say that it is entitled to prevent any trader operating in Buxton from using the name Buxton for his goods because to do so would cause the public to believe that those goods were in some way connected or associated with the Complainant? That, in essence, is the substance of the Complainant's case."*
- 6.22 The case before me involves a Domain Name which includes a clear geographical reference. Unlike however the <buxtonspa.co.uk> case, it is not the Complainant's case that no trader should be allowed to operate under the "Derby" name. The Complainant is seeking specific redress over the Domain Name (<derbyarena.co.uk>) as it claims that this Domain Name, in the hands of the Respondent, is an Abusive Registration.
- 6.23 Further, although the Complainant and Respondent are located in the same city in the UK, the Respondent in this case has made no use of, nor has he provided evidence of demonstrable preparations to use, the Domain Name in connection with a website for his goods and/or services emanating from the Derby area since his registration of the Domain Name in 2012 – some years after plans for the building of an arena in the city were first announced, and also after the Complainant issued a press release highlighting the fact that a planning application had been submitted for a new multi-sport Arena to be built next to Pride Park Stadium, in the city of Derby. He has also not specifically denied the Complainant's claim to Rights. Rather, he has simply said that the Complainant "never wanted" the Domain Name. This is not sufficient, on its own, to rebut the Complainant's claim to Rights.

- 6.24 In addition, the Respondent does not deny or seek to otherwise challenge the Complainant's claim that there is only one Arena in Derby and that is the one operated by the Complainant. Had the Respondent put forward arguments that the name "Derby Arena" might legitimately refer to (for example) businesses, traders or non-commercial entities which could credibly and legitimately refer to themselves as "Derby Arena" then the geographical reference within the Domain Name (namely, "Derby") might have had more significance in the context of the nature and extent of the Complainant's rights.
- 6.25 The Respondent is not offering, and has not offered, goods or services under the name "Derby Arena" and he has not made legitimate non-commercial or fair use of the Domain Name (as to which see further below under Abusive Registration). Further, the geographical indicator in the Domain Name ("Derby") is followed by the word "Arena", a word commonly used to describe or name a stadium or some other sporting or entertainment venue in a particular area. The combination of the geographical indicator Derby followed by the word Arena is in my view likely therefore to be seen by a number of consumers as referring to a stadium or venue in the Derby area.
- 6.26 In light of the above I am of the opinion that the geographical indicator in the Domain Name does not adversely affect the Complainant's Rights in this case.
- 6.27 The Domain Name comprises the "Derby Arena" name in its entirety (excluding the generic .co.uk suffix). I also find that the name in which the Complainant has Rights ("Derby Arena") is identical to the Domain Name. Accordingly the Complainant has made out the requirements of paragraph 2(a)(i) of the Policy.

Abusive Registration

- 6.28 Paragraph 1 of the Policy defines "Abusive Registration" as a Domain Name which either:
- i. was registered or otherwise acquired in a manner which, at the time when the registration or acquisition took place, took unfair advantage of or was unfairly detrimental to the Complainant's Rights; or
 - ii. has been used in a manner which took unfair advantage of or has been unfairly detrimental to the Complainant's Rights.
- 6.29 Paragraph 3 of the Policy sets out a non-exhaustive list of factors, which may be evidence that the Domain Name is an Abusive Registration. Paragraph 4 of the Policy provides a non-exhaustive list of the factors which may be evidence that the Domain Name is not an Abusive Registration.

- 6.30 The Policy provides for the Complainant to prove, on the balance of probabilities, that the Domain Name is an Abusive Registration. The burden of proof is therefore firmly on the Complainant.
- 6.31 The Complainant specifically relies on paragraph 3(a)(i)(A) of the Policy to make out its case on Abusive Registration. It also makes contentions that are relevant to paragraphs 3(a)(i)(C) and 3(a)(iii) of the Policy, namely that the registration of the Domain Name is already disrupting the Complainant's business and that the Respondent has registered other domain names which correspond to Derby Arena (the name in which the Complainant has Rights, and in which the Respondent has no apparent rights).
- 6.32 Paragraph 3(a)(i) of the Policy concerns the registrant's (who in this case is the Respondent) motives at the time of registration of the Domain Name.
- 6.33 The Respondent in this case is an individual with an address in Derby, UK, and the same city in which the Complainant and the venue known as "Derby Arena" is located. The Respondent's case as to why he should be entitled to retain the Domain Name is essentially that, according to the Respondent, the Complainant never wanted to own the Domain Name. The Respondent has not challenged the Complainant's contentions that it has promoted the venue known as "Derby Arena" through the press since plans for its build were put forward in 2009. It is, in my opinion, inconceivable that the Respondent was not aware of the Complainant's plans to build and operate a venue known as "Derby Arena" at the time that it registered the Domain Name.
- 6.34 I therefore find that the Respondent had actual, or at the very least, constructive, knowledge of the Complainant and its Rights in the name "Derby Arena" at the time that it registered the Domain Name.
- 6.35 The Respondent also states in his Response that he had mentioned to the Complainant that he would build, maintain and run the website under the Domain Name at no cost to the Complainant and would split all revenue from the website with the Complainant. This statement, together with the Respondent's contention that he has been approached by investors interested in the Domain Name and he would have to take this "into consideration moving forward", lead me to believe that the Respondent registered the Domain Name with the intention to subsequently generate significant profit from it in some way, either from the Complainant or from third parties.
- 6.36 Paragraph 4(d) of the Policy states that:
- "Trading in domain names for profit, and holding a large portfolio of domain names, are of themselves lawful activities. The Expert will review each case on its merits."*
- 6.37 However, in the specific circumstances of this case and taking into account the evidence and contentions made by the Complainant in its Complaint

and the statements of the Respondent in his Response, I am satisfied that the Domain Name was acquired to benefit from the reputation and goodwill of the Complainant and the Derby Arena name (even if such reputation and goodwill is limited in this case due to the nature of the use to which this name has been put as at the date of the Complaint) and I find that, on the balance of probabilities, the registration of the Domain Name by the Respondent *“took unfair advantage of or was unfairly detrimental to the Complainant’s Rights”* (per the definition of Abusive Registration as set out in the Procedure).

6.38 In reaching this finding I have taken into account the following factors: (i) the Respondent has put forward no evidence that he has ever traded as “Derby Arena” other than in relation to the registration of the Domain Name or that he has some other legitimate interest in the name “Derby Arena” other than the mere holding of the Domain Name; (ii) there is no evidence before me that the Domain Name has resolved to an active website since its registration and the Respondent has made no use of the Domain Name in connection with an active website; (iii) the Respondent has registered a domain name that incorporates the name in which the Complainant has Rights (“Derby Arena”) in its entirety and without any adornment; (iv) there is only one venue in Derby called “Derby Arena” and that is the one owned and operated by the Complainant; (v) the Domain Name was registered two days after the Complainant issued a press release setting out news and information regarding the planning application for the Derby Arena (specifically referencing the “Arena”); (vi) the Respondent’s previous suggestion to the Complainant of a model where he would split all revenue from the relevant website with the Complainant and subsequently that he would have to take into consideration the interest shown by investors in the Domain Name going forwards; and (vii) the Respondent’s other domain name registrations that incorporate the “Derby Arena” name.

6.39 In addition, given the identity between the Domain Name and the name in which the Complainant has Rights, and the fact that a significant proportion of the public located in the city of Derby in the UK (and in all likelihood consumers outside of the city of Derby who have some interest in sporting facilities located in the UK) would have known about the building of the venue and its operating name (“Derby Arena”) as a result of the promotion of it by the Complainant, I am also satisfied that consumers searching online for the sports facility known as “Derby Arena” which is owned and to be operated by the Complainant are likely to expect there to be some connection between any website operated under the Domain Name and the Complainant, even before they arrive at that website (regardless of the state of that website). As stated in paragraph 3.3 of the Experts’ Overview:

“This is what is known as ‘initial interest confusion’ and the overwhelming majority of Experts view it as a possible basis for a finding of Abusive Registration, the vice being that even if it is immediately apparent to the visitor to the web site that the site is not in any way connected with the Complainant, the visitor has been deceived.”

- 6.40 This possibility is enhanced by the Complainant's claim (not denied or otherwise challenged by the Respondent) that there is currently only one venue in Derby called "Derby Arena" and that the Domain Name is identical to the Complainant's "Derby Arena" name and is without any adornment (other than the generic .co.uk suffix).
- 6.41 I am therefore prepared to find that, on the balance of probabilities, paragraph 3(ii) of the Policy also applies in this case.
- 6.42 Accordingly the Complainant has also made out the requirements of paragraph 2(a)(ii) of the Policy.
- 6.43 Finally, and for completeness, I will also deal with the statement that the Respondent made in his Response regarding a need for more time to gather the "relevant information" (being email correspondence between the Respondent and members of the Complainant and other documents) together.
- 6.44 Firstly, it is important to note that the Respondent did not make a formal request for more time either in his Response or by way of a further statement submitted as part of these proceedings. Had he done so I would have considered the request in the context of paragraph 12(a) of the Procedure and the guidance on extensions of time given in paragraph 5.8 of the Expert's Overview which says that "*Extensions of time are rare and will be granted very sparingly.*".
- 6.45 Secondly, the Respondent does not expand in his Response as to how much longer he would need to gather these emails.
- 6.46 Lastly, according to the Response these emails appear to refer to the position of the Respondent that the Complainant never wanted to own the Domain Name. Even if the Respondent could prove this point, it is not relevant to the question of whether or not the Domain Name, in the hands of the Respondent, is an Abusive Registration. It is highly likely therefore that had the Respondent made a formal request for more time specifically to deal with the issue raised above I would have declined it.

7. Decision

- 7.1 The Complainant has established that it has Rights in respect of a name or mark which is identical to the Domain Name and that the Domain Name in the hands of the Respondent is an Abusive Registration.
- 7.2 Accordingly, the Complaint succeeds and I direct that the Domain Name, <derbyarena.co.uk>, be transferred to the Complainant.

Signed **Ravi Mohindra** **Dated** **27 May 2015**