

# **DISPUTE RESOLUTION SERVICE**

**D00017046**

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

Fireworx Scotland Ltd

and

Keith Strachan t/a Terabyte Technology

### **1. The Parties:**

Complainant: Fireworx Scotland Ltd  
Unit 7, Blackhall Industrial Estate  
Inverurie  
Aberdeenshire  
AB51 4FS  
United Kingdom

Respondent: Keith Strachan t/a Terabyte Technology  
Unit 10 Burn O Bennie  
Banchory  
Aberdeenshire  
AB31 5QA  
United Kingdom

### **2. The Domain Name:**

eventfxscotland.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 eventfxscotland.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's complaint is sparse and there is a paucity of evidence in support of the complaint. This is despite the Complainant having received a Chairman's warning (see paragraph 5.12 of the Dispute Resolution Service – Experts' Overview). Nevertheless, having carefully considered the matter I am satisfied the Complainant has proved to me that both elements of paragraph 2(a) of the Dispute Resolution Service Policy ("the Policy") are present on the balance of probabilities. As this is a summary decision I will not set out in full the reasons for my decision. However, I would like to highlight the following:

1. I have taken into account the content of the web site at the Domain Name which is referred to in the complaint, including a statement dated 19 January 2011 that Event FX is a division of the Complainant.
2. The Complainant does not rely on any registered trade mark rights but asserts that the name Event FX Scotland is recognised by the purchasing public as indicating the goods or services of the Complainant. The Complainant has not followed the guidance at paragraph 2.2 of the Experts' Overview in respect of the type of evidence that would support this statement and relies only on the web pages at the Domain Name. Taking into account that the question of Rights is a test with a low threshold to overcome I am satisfied on the basis of those web pages that the Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Name.
3. Further, "rights" for the purposes of the Policy can include the legal right the Complainant has to demand the transfer of the Domain Name so that it can fully and directly control that registration and be named as the registrant of the Domain Name. In this respect I refer to and agree with the comments of the Expert, Mr Matthew Harris, at paragraphs 6.6-6.10 of his decision in D00015217 (Cardiff Bay Leisure Limited and Mr Ryan Hopkins). According to the complaint, the Respondent registered the Domain Name whilst an employee of the Complainant (or a related business). The Respondent has made no response to the complaint and

has not denied his status as an employee when he registered the Domain Name or explained why he registered the Domain Name. In such circumstances, I am satisfied that the Complainant has a legal right to call for the transfer of the Domain Name into its name.

4. I have taken into account paragraph 3(a)(v) of the Policy. Whilst there is no evidence as to who paid for the registration and/or renewal of the Domain Name the factors in paragraph 3 are non-exhaustive.

## **8. Decision**

I grant the Complainant's application for a summary decision. In accordance with paragraph 5f of the Procedure, the domain name will therefore be transferred to the Complainant.

Signed: Patricia Jones

Dated: 9 March 2016