

DISPUTE RESOLUTION SERVICE

D00018618

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

TANYARD FISHERIES & AQUATICS LIMITED

and

Mr Emmanuel Regent

1. The Parties:

Complainant: TANYARD FISHERIES & AQUATICS LIMITED
Tanyard Lane, Furners Green
Uckfield
East Sussex
TN22 3RL
United Kingdom

Complainant: TANYARD FISHERIES & AQUATICS LIMITED
Tanyard Lane, Furners Green
Uckfield
East Sussex
TN22 3RL
United Kingdom

Respondent: Mr Emmanuel Regent
33 Middlefield
Welwyn Garden City
AL7 4DQ
United Kingdom

2. The Domain Name:

tanyardfisheries.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 section 3 and 6 of the Policy.

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 tanyardfisheries.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 really produced any or any sufficient evidence of its Rights as defined by the DRS Policy.

The Experts' Overview version 2 published in November 2013 contains a useful summary of Decisions made by Experts under the Nominet DRS Policy. At paragraph 2.2 it deals with what evidence a complainant must produce to show that it has sufficient Rights. As it says, "bare assertions will rarely suffice".

I do not know whether there is a registered trademark, but no certificate has been produced. A certificate of a company's incorporation is not the same and will not in general suffice: I take the consensus view, as indicated in the

Experts' Overview at paragraph 1.7, that a company registration of itself is insufficient to demonstrate the existence of Rights under the DRS Policy.

It may be that the Complainant is relying on unregistered trademark rights, but the Complainant has only produced a couple of website screenshots. As the Experts' Overview states, I would need to see some evidence of use of the mark or name said to constitute Rights over a not insignificant period and to a not insignificant degree and, furthermore, I would need to see evidence of how the name or mark is recognised by the trade or public as indicating the Complainant's services in particular.

There being no Rights, it is not possible to find an Abusive Registration.

8. Decision

I refuse the Complainant's application for a summary decision. The domain name registration will therefore remain with the Respondent.

Signed: Richard Stephens

Dated: 7 April 2017