

# **DISPUTE RESOLUTION SERVICE**

**D00019057**

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

Popcard Retail Solutions Limited

and

Chris Rogers

### **1. The Parties**

Complainant: Popcard Retail Solutions Limited  
Unit 9 Brenton Business Complex  
Bond Street  
Bury  
Greater Manchester  
BL9 7BE  
United Kingdom

Respondent: Chris Rogers  
52 Copse Road  
Clevedon  
Bristol  
North Somerset  
BS21 7QP  
United Kingdom

### **2. The Domain Names**

popcard.co.uk; popcard.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 Names.

Yes  No

**5. Abusive Registration**

The Complainant has, to my reasonable satisfaction, shown that the domain names popcard.co.uk and popcard.uk are 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)**

As this is a summary decision I have not set out in full the reasons for my decision. However, the main points that have influenced me are:

- The Complainant is the owner of a UK registered trade mark for PopCard registered on 1 May 2015. On that basis I find the Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Names.
- The Complainant relies on paragraph 5.1.1.1 of the Nominet Dispute Resolution Service Policy (“the Policy”) as evidence that the Domain Names are an Abusive Registration. Paragraph 5.1.1 of the Policy relates to the Respondent’s motives at the time of registration of the Domain Names. It must be established that the Respondent had knowledge of the Complainant and/or its Rights at the time of registration of the Domain Names.
- The Complainant was incorporated on 3 May 2017 after the Domain Names were registered on 19 March 2017. The Complainant says that since publication of the registered trade mark “*we have built up good will and awareness of our brand within our sector of operation*”. The Complainant appears to be referring to the activities of its “*partner company*”, Popcard Limited, from whom it acquired the registered trade mark. However the Complainant has adduced no evidence in support of its statement. The Complainant says “*we have previously registered.....popcard.co.uk and due to an unfortunate administrative error by an ex-employee of the company (Popcard Limited), this domain was not renewed*”. It states that “*Prior to expiration this domain displayed a full and active website with a number of key functions, clearly displaying the activity and ownership of our company.*” However no evidence is adduced, for example, on how long the web site was operating for and the volume of traffic to the site. My own enquiries show that Popcard Limited is listed as a dormant company and that it has only ever filed accounts as a dormant company.
- I do not consider the Complainant has established on the balance of probabilities that the Respondent had knowledge of the PopCard mark when he registered the Domain Names. I therefore do not find that the Domain Names, in the hands of the Respondent, are an Abusive Registration under paragraph 1(i) of the Policy.

- It therefore has to be considered whether the Respondent has done something to take advantage of or to exploit his position once he became aware of the Complainant's Rights. In this case after the dispute was filed the Respondent listed popcard.co.uk for sale for £299 and popcard.uk for sale for £199. These are relatively modest sums and are not indicative of the Respondent demanding sums much more than the Domain Names are actually worth. I have also taken into account paragraph 8.4 of the Policy which sets out 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. In the circumstances I do not consider the Respondent's listing of the Domain Names for sale is an Abusive use of the Domain Names.
- Finally the Complainant relies on paragraph 5.1.3 of the Policy. The Complainant cites the Respondent's registration of the domain names iphone6.co.uk, skepta.co.uk, kanyewest.co.uk, phones4uk.com and prittstick.com. Having considered these domain names and their registration dates I do not consider this paragraph is established.

## **8. Decision**

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

Patricia Jones

21 August 2017