

DISPUTE RESOLUTION SERVICE

D00019813

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

Apple County Customs

and

Heath Damien

1. The Parties:

Complainant: Apple County Customs
Apple County Customs
R/O 77 Keynsham Road, Keynsham
Bristol
Avon
BS31 2DE
United Kingdom

Respondent: Heath Damien
8 Pilkington st
Manchester
Greater Manchester
M24 2JJ
United Kingdom

2. The Domain Name:

applecountycustoms.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 applecountycustoms.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 most relevant provision of the Policy is paragraph 5.1.6. Although there is some evidence that the Complainant's company has rights in and has used the name Apple County Customs, with which the disputed domain name is an exact match, there is no evidence that the reputation of the Apple County Customs name is such that the Respondent must have been aware of it when registering the disputed domain name. Further, even if the Respondent was aware of it then, the disputed domain name was registered after the Complainant's unsuccessful attempts to renew its own registration of it, so the possibility cannot be excluded that the Respondent might have thought the Complainant no longer wanted it. Under these circumstances it is not possible to conclude that the Respondent had no reasonable justification for having registered the disputed domain name. Since the Complaint was brought the day after the disputed domain name was registered, the fact that the Respondent has not used it is of no consequence.

8. Decision

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

Signed:

Dated: March 12, 2018.