

DISPUTE RESOLUTION SERVICE

D00020456

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

VACALIANS GROUP

and

Eric Perry

1. The Parties:

Complainant: VACALIANS GROUP
VACALIANS GROUP
8, rue François Villon
Paris
Île de France
75015
France

Respondent: Eric Perry
PO Box 701
San Mateo
California
94401
United States

2. The Domain Name:

evadea.co.uk
evadeo.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 names evadea.co.uk and evadeo.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)

Under Nominet's DRS it is for the Complainant to show, on the balance of probabilities, that it has Rights in respect of a name or mark which is identical or similar to the Domain Name(s).

Here, the Complainant has failed to satisfy me that it has Rights in a name or mark which is identical to the Domain Name(s).

The main evidence of Rights that the Complainant relies on are a number of trade mark applications that were filed by the Complainant very shortly before the Domain Names were applied for. In my view the existence of such applications, without any evidence of use, is not enough to constitute Rights. The position is likely to have been different if these applications had been granted trade marks when the Complaint was made.

Similarly the Complaint lists a number of domain names that the Complainant has registered but without any evidence of use of these domain names. Again, in my view the mere ownership of domain names is not by itself enough to show Rights.

8. Decision

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

Signed:

Dated: