

DISPUTE RESOLUTION SERVICE

D00020808

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

Gyllyngvase House Hotel

and

Gyllyngvase House Hotel

1. The Parties:

Complainant: Gyllyngvase House Hotel
Gyllyngvase House Hotel
Gyllyngvase Road
Falmouth
Cornwall
TR11 4GH
United Kingdom

Respondent: Gyllyngvase House Hotel
First Floor, 14 First Avenue
Hove
East Sussex
BN3 2FE
United Kingdom

2. The Domain Name:

gyllyngvase.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 **gyllyngvase.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)

This is an unusual case where the previous owner of the Gyllyngvase House Hotel is still controlling the use of the Domain Name associated with the business. The evidence provided shows the new ownership (Complainant) to have acquired the established goodwill, which would include common law rights in the name. The Expert is therefore satisfied that the Complainant has relevant rights. The continuing use of the Domain Name by the previous owner for a website with an enquiry form purportedly still relating to the business plainly takes unfair advantage of, and is unfairly detrimental to, the rights acquired by the Complainant. The Domain Name is therefore an Abusive Registration.

8. Decision

I grant the Complainant's application for a summary decision. In accordance with section 12 of the Policy, the Domain Name will therefore be transferred to the Complainant.

Signed:
Keith GYMER

Dated: 11 December, 2018