

# **DISPUTE RESOLUTION SERVICE**

**D00022209**

## **Decision of Independent Expert**

LogMeIn USA, Inc

and

Gabriela Dubiago

### **1. The Parties:**

Complainant: LogMeIn USA, Inc  
Dallas  
United States of America

Respondent: Gabriela Dubiago  
London  
United Kingdom

### **2. The Domain Name:**

gotomeeting.uk

### **3. Procedural History:**

23 January 2020 16:10 Dispute received  
24 January 2020 12:42 Complaint validated  
24 January 2020 14:40 Notification of complaint sent to parties  
12 February 2020 01:30 Response reminder sent  
13 February 2020 11:30 Response received  
13 February 2020 11:31 Notification of response sent to parties  
18 February 2020 01:30 Reply reminder sent  
18 February 2020 16:29 Reply received  
18 February 2020 16:29 Notification of reply sent to parties  
21 February 2020 10:58 Mediator appointed  
24 February 2020 11:07 Mediation started  
24 February 2020 15:03 Mediation failed  
24 February 2020 15:13 Close of mediation documents sent

28 February 2020 12:22 Expert decision payment received  
11 March 2020 Expert – Tim Brown - appointed

I can confirm that I am independent of each of the parties. To the best of my knowledge and belief, there are no facts or circumstances, past or present, or that could arise in the foreseeable future, that need be disclosed as they might be of such a nature as to call in to question my independence in the eyes of one or both of the parties.

## **4. Factual Background**

### **4.1 The Complainant**

The Complainant - LogMeIn USA, Inc – is a company incorporated in Dallas, United States. It was incorporated in 2016. Through a variety of predecessors, details of which are set out in the Complainant's submissions, the Complainant has operated the brand GOTOMEETING since around 2005.

GOTOMEETING is an online video conferencing and remote desktop sharing software platform that enables users to see and speak with other users via the Internet in real time.

The Complainant has enjoyed revenues within the United Kingdom for all its products of USD\$25,738,000 in 2016, USD\$51,328,000 in 2017, and USD\$55,799,000 in 2018. The Complainant has won several awards and has sponsored and attended a number of events in the United Kingdom, which are set out in its submissions.

The Complainant and its predecessors have offered its software and service via its websites at "www.gotomeeting.com" (since its registration in 2003) and "www.gotomeeting.co.uk" (since its registration in 2004).

### **4.2 The Respondent**

The Respondent is an individual located in London, United Kingdom. The Respondent says she is engaged in a real estate business in London, and other major cities, and is planning a cosmetics business.

The Domain Name was registered on 03 July 2019. The Domain Name resolves to the default parking page of the Respondent's registrar and displays pay per click advertising.

The Respondent gave its response to these proceedings via email and did not use Nominet's online system, which is used by parties to file and respond to complaints. As it has not done so, and has not specifically noted it in its email, the Respondent has not included the statement required by Policy paragraph 7.3.6, namely that:

*The information contained in this response is to the best of the Respondent's knowledge true and complete and the matters stated in this response comply with the Policy and applicable law.*

Given the absence of this declaration, I will assess the Respondent's evidence accordingly.

Before proceedings began, the Complainant's agent and the Respondent had some communications and this correspondence has been exhibited. This correspondence mainly narrates the negotiations between the Parties which preceded this dispute and are of a nature that is typical of such negotiations.

## **5. Parties' Contentions**

### **5.1 Complainant – Rights**

The Complainant sets out its history and that of its predecessors in some detail. The Complainant has also exhibited several registered trademarks which relate to its GOTOMEETING product and family of related brands.

The Complainant has exhibited European Union Trade Mark registration number 4236584 for the term GOTOMEETING, which is registered in classes 9, 38 and 42, and has a filing date of 11 January 2005 and registration date of 08 March 2006. A copy of an extract from the European Union Trade Mark database for this mark has been exhibited.

The Complainant says that the Domain Name is identical to its registered GOTOMEETING trade mark.

The Complainant further sets out that its GOTOMEETING software has been used to create millions of online meetings each year by millions of worldwide users each month and has been continuously and substantially used and promoted by the Complainant and its predecessors since 2005. The Complainant has listed and exhibited evidence of its attendance and sponsorship of various events in the United Kingdom, alongside the awards its products have won.

The Complainant says that this activity demonstrates that the Complainant has had extensive and longstanding use of its GOTOMEETING mark and brand in the United Kingdom and that the Complainant has a high reputation.

### **5.2 Complainant – Abusive Registration**

The Complainant contends that the Domain Name is identical to its GOTOMEETING trade mark and amounts to a false representation that the Respondent's business is associated or connected with that of the Complainant's and that this takes unfair advantage of, and causes unfair detriment to, the Complainant's GOTOMEETING trade mark.

The Complainant avers that the Respondent is trying to trade off its reputation by registering a Domain Name identical to its mark and has no reasonable justification for having registered the Domain Name.

The Complainant says that the Respondent could not have carried out a search of the United Kingdom trade mark register at the time it registered the Domain Name, otherwise it would have found the Complainant's European Union trade mark registration.

Furthermore, the Complainant says that the Domain Name is both a blocking registration and an instrument of fraud referring, in the latter contention, to British Telecommunications plc v One in a Million Ltd [1999, 1 WLR 903]. The Complainant contends that the mere registration and maintenance of the Domain Name clearly suggests a connection between the Respondent and Complainant, which does not exist, and that Respondent's registration of the Domain Name is therefore an Abusive Registration in terms of the Policy.

### **5.3 Respondent – Rights**

The Respondent does not make any specific contentions in relation to the Complainant's rights.

#### **5.4 Respondent – Abusive Registration**

The Respondent contends that the Complainant has not been harmed and will not be harmed in any way by its use of the Domain Name and that all its actions will always be “according to law”.

The Respondent says that none of its current or planned future businesses is in any way related to the trademark GOTOMEETING and observes that it has not used the Domain Name yet. The Respondent notes that it is concerned with the real estate business and is planning to start a cosmetics business, implying that it has no connection to the Complainant’s business.

The Respondent avers that “go to meeting” is a phrase which is very common in English and the Respondent says it uses it dozens of times a day. The Respondent suggests it is a common phrase, especially in a busy city like London and where everyone always has to “go to meeting”.

As a result of the popularity of the phrase, the Respondent says that it believes the Domain Name will be able to generate a lot of traffic for its business website which is currently being built.

The Respondent says that it did not think someone could have possibly made such a popular phrase into a trade mark and at the same time claim the use of this phrase to be exclusive to them. The Respondent says that it cannot imagine how its registrar could possibly ever sell a domain name which by law already belongs to somebody else.

The Respondent then sets out a chronology and description of the correspondence between the Parties. The written correspondence has been exhibited and is typical of such communications and, while I have carefully read it, it is unnecessary to set out its contents in detail.

#### **5.5 Complainant – Reply**

The Complainant disagrees with the Respondent’s contention that GOTOMEETING is a commonly used phrase in English and says that in spoken English the phrases “go to a meeting” or “go to the meeting” would be more commonly used.

The Complainant has exhibited searches from the search engines Google and Bing for the phrase GOTOMEETING. The Complainant observes that none of the results relate to a common usage of phrase in English and notes that each of the results refer to the Complainant and its product.

## **6. Discussions and Findings**

A Respondent must submit to proceedings under the DRS if a Complainant asserts to Nominet that the Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Name; and that the Domain Name, in the hands of the Respondent, is an Abusive Registration.

The Complainant is required to prove to the Expert that both elements are present on the balance of probabilities.

According to the Policy, “Rights” means rights enforceable by the Complainant, whether under English law or otherwise, and may include rights in descriptive terms which have acquired a secondary meaning.

“Abusive Registration” means a Domain Name which either was registered or otherwise acquired in a manner which, at the time when the registration or acquisition took place, took unfair advantage of or was unfairly detrimental to the Complainant's Rights; or is being or has been used in a manner which has taken unfair advantage of or has been unfairly detrimental to the Complainant's Rights.

I have carefully read all the Parties' submissions and evidence and make my decision based on their relevance to the Policy.

### **6.1 Rights**

The Complainant has set out its, and its predecessors', history and detailed its rights at some length. In my view, of greatest significance is its European Union Trade Mark for the term GOTOMEETING, which is set out in the factual background above and has a filing date of 11 January 2005 and registration date of 08 March 2006.

I observe the filing date of this mark pre-dates the registration of the Domain Name by some fourteen years and that the Complainant has also exhibited evidence that it has used GOTOMEETING for a not insignificant period and to a not insignificant degree within the United Kingdom and beyond.

It is clear from the evidence before me that the Complainant had established Rights in the term GOTOMEETING – both through its registered mark and having acquired a secondary meaning in the term – long before the Domain Name was registered by the Respondent. I also note that in its submissions the Respondent did not challenge the Complainant's Rights.

As is common in proceedings under the DRS, the top-level domain name - .uk - is only required for technical reasons and therefore can be ignored for the purposes of comparing a domain name to a complainant's mark.

I therefore find that the Domain Name is identical to the Complainant's GOTOMEETING mark.

### **6.2 Abusive registration**

The Complainant has put forward a number of arguments which set out why it considers the Domain Name to be an Abusive Registration. These cover most of the factors which may be evidence that a domain name is an Abusive Registration, which are given in paragraph 5.1 of the Policy.

In my view, the most relevant of these is paragraph 5.1.6 which notes that a domain name will be an Abusive Registration if:

*The Domain Name is an exact match (within the limitations of the character set permissible in domain names) for the name or mark in which the Complainant has Rights, the Complainant's mark has a reputation and the Respondent has no reasonable justification for having registered the Domain Name.*

As I have outlined above, the Domain Name is an exact match of the name or mark in which the Complainant has Rights. Equally, it is clear from the evidence before me that the Complainant and its predecessors have built up a reputation in the GOTOMEETING mark through well over a decade of trading and offering its software and service to the public.

The question therefore remains as to whether the Respondent has a reasonable justification for having registered the Domain Name.

The Respondent has said that it is concerned with real estate and is planning a cosmetics business. However, the Respondent has put forward no evidence relating to the existence of

these businesses and given no reason why either would be associated with the Domain Name. There is no evidence before me that shows that either of these nascent businesses are known as or will be called GOTOMEETING.

Furthermore, the Respondent has said that "none of my current or planned future businesses is in any way related to the trademark GOTOMEETING". While the businesses may not perhaps relate to the trade mark itself, this statement raises a stark question as to why the Respondent has mentioned these businesses if they will have nothing to do with the term GOTOMEETING. In any event, it does not seem to me that GOTOMEETING would make much sense as name for either a real estate or cosmetics business.

The Respondent has put forward an alternative argument; that the phrase "go to meeting" is a very common one "especially in a busy city like London...and where everyone always has to 'go to meeting'".

In its reply, the Complainant rejects the Respondent's contention, suggesting that "go to meeting" is not a commonly used phrase and that in spoken English "go to a meeting" or "go to the meeting" are in more widespread use.

On balance, I agree with the Complainant. It seems to me that "go to meeting", lacking the definite article "the" or the indefinite article "a", makes little sense in spoken English. I consider that Respondent's argument that it was merely registering a commonly used phrase, with no reference to the Complainant and its product, carries little weight.

Considering both of its main arguments, I therefore conclude that the Respondent has not put forward a reasonable justification for having registered the Domain Name in terms of paragraph 5.1.6 and that the Domain Name, in the hands of the Respondent, is therefore an Abusive Registration in terms of the Policy.

In light of my finding under this element of the Policy, there is no need to set out set out the Parties' contentions as they relate to other parts of the Policy, save noting that these would not have had an effect on the outcome.

## **7. Decision**

I find that the Complainant has proved that it has Rights in a name or mark which is identical to the Domain Name and that the Domain Name, in the hands of the Respondent, is an Abusive Registration. I therefore direct that the Domain Name is transferred to the Complainant.

**Signed  
Tim Brown**

**Dated 18 March 2020**