

## **DISPUTE RESOLUTION SERVICE**

**D00022296**

### **Decision of Independent Expert**

**World Wrestling Entertainment, Inc.**

and

**Mohneesh Wadhwa**

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

Lead Complainant: World Wrestling Entertainment, Inc.  
1241 East Main Street  
CT 06902  
Stamford  
United States

Respondent: Mohneesh Wadhwa  
82, Kamla Nagar  
Near Kingsway camp  
Delhi  
110007  
India

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

onlinewe.uk (the "Domain Name")

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

- 3.1 I 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 a such a nature as to call in to question my independence in the eyes of one or both of the parties.
- 3.2 30 January 2020 15:13 Dispute received  
31 January 2020 10:16 Complaint validated  
31 January 2020 10:19 Notification of complaint sent to parties  
19 February 2020 01:30 Response reminder sent  
24 February 2020 10:35 No Response Received  
24 February 2020 10:35 Notification of no response sent to parties  
05 March 2020 01:30 Summary/full fee reminder sent  
09 March 2020 15:41 Expert decision payment received  
16 March 2020 Appointment of expert

### **4. Factual Background**

- 4.1 The complainant, World Wrestling Entertainment Inc, is the owner of several registered trademarks in respect of the term “WWE”, which is an abbreviation of the name World Wrestling Entertainment. The Complainant has asserted that it has trademarks and trademark applications in over 60 countries throughout the world in respect of the term “WWE”. The Complainant has provided evidence, in the form of printouts from the websites of the UK Intellectual Property Office, and the European Union Intellectual Property Office, drawing particular attention to the UK Trade Mark Registration number 00003169802, and European Union Trade Mark registration numbers 002732493 and 008755084, which specifically relate to the term “WWE”.
- 4.2 The Complainant asserts in addition that the term “WWE” is internationally renowned for entertainment and retail services, and consumer products.
- 4.3 The Respondent, Mohneesh Wadhwa, has not provided a response.
- 4.4 The Domain Name was registered on 2 November 2019. It resolves to a blank parking page, with typeface indicating that advertisements from third parties may at one time have been present, or may be added in the future. In the past it has been linked to a website which offered content – see discussion below.

## **5. Parties' Contentions**

5.1 The Complainant's contentions are that;

- the Complainant has both registered and unregistered trademark rights in the Domain Name;
- the Domain Name wholly contains a trademark, "WWE", held by the Complainant, which represents an infringement of this trademark;
- the Respondent has no right or permission to use this trademark;
- the Domain Name displays links to material copyrighted and owned by the Complainant without the relevant permission of the Complainant;
- as a result, customers of the Complainant will confuse the website at the Domain Name with the Complainant, believing it to be connected to or authorised by the Complainant, for the commercial gain of the Respondent;
- the Respondent, in registering the Domain Name, has sought to capitalise on the fame and value of the "WWE" trademark by selling, renting, or otherwise transferring the Domain Name to the Complainant, or one of their competitors for valuable consideration;
- the Respondent, in reproducing without permission video material copyrighted by the Complainant, clearly has awareness of the existing trademark rights held by the Complainant;
- the Respondent has not used the Domain Name in connection with a genuine offering of goods or services; and
- the Respondent has not commonly been known by the Domain Name.

5.2 On this basis, the Complainant requests that the Domain Name be transferred to them.

5.3 The Respondent has not filed any response to the Complaint.

## **6. Discussions and Findings**

### Rights

6.1 Under paragraph 2 of the Nominet Dispute Resolution Service Policy (the "DRS Policy"), a Complainant must prove to the satisfaction of the relevant expert that they have Rights in respect of a name or mark that is identical or similar to the Domain Name, before then showing that the registration itself is an Abusive Registration.

6.2 Rights, as defined by the DRS Policy, "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".

- 6.3 In this case, the Complainant has provided evidence showing that they have registered trademarks in both the United Kingdom and the European Union in respect of “WWE”.
- 6.4 In addition, the Complainant has provided evidence of their existing domain names, and screenshots of a website containing material related to the trademarks they hold, relating to “WWE” and “World Wrestling Entertainment”. They also provide anecdotal evidence relating to the prominence of the trademarks “WWE”, “World Wrestling Entertainment”, and similar, throughout the entertainment, retail, and consumer products markets.
- 6.5 Under UK common law, a trader might enforce an unregistered trademark right to prevent a competitor from taking advantage of established goodwill or reputation within a market (known as “passing off”). In light of the evidence as to the reputation of the name, I also consider that the Complainant has unregistered trademark rights in the name “WWE”.
- 6.6 It is clear to me, therefore, that the Complainant does have Rights as set out in the DRS Policy in the term “WWE”.
- 6.7 In terms of assessing whether the Domain Name is identical or similar to the name in which the Complainant has rights, I refer to the Nominet Dispute Resolution Service Experts’ Overview section 2.3 (available on Nominet’s website), where it states that “a name or mark will ordinarily be regarded as identical to the domain name if, at the third level, and ignoring the presence of hyphens and the absence of spaces and ampersands, they are the same”. It also indicates that additional elements, which might be descriptive, and that do nothing to distinguish the Domain Name from the trademark in question, are unlikely to be significant.
- 6.8 In this case, the Domain Name consists of the trademark “WWE”, and the word “online”. “Online” is an identifier which indicates a computer or internet connection, and is therefore purely descriptive.
- 6.9 Consequently, in this case I consider the “online” element of the Domain Name does not distinguish it from the Complainant’s WWE trade mark, and as such I determine that, ignoring the “.uk” ccTLD suffix, the name “WWE” is similar to the Domain Name. I therefore find that the Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Name, as required under the DRS Policy.

#### Abusive Registration

- 6.10 An Abusive Registration, as set out in the DRS Policy, means a Domain Name which either:

- i. 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
- ii. 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;

6.11 The DRS Policy sets out a number of factors which may be evidence that a Domain Name is an Abusive Registration, which I consider to be relevant in this particular case. The Complainant has also set out a number of ways in which they consider that the Domain Name is an Abusive Registration. In my view, the most relevant factor in this case which may be evidence that the Domain Name is an Abusive Registration is listed under 5.1.1 of the DRS Policy:

“Circumstances indicating that the Respondent has registered or otherwise acquired the Domain Name primarily:

...

5.1.1.3 for the purpose of unfairly disrupting the business of the Complainant;”

6.12 The Complainant has provided evidence, in the form of the revenue page of the company’s 2018 Annual Report, confirming that the Complainant operates a large digital content delivery service, accounting for hundred of millions of dollars in revenue. They state that this is available in most international markets, including the United Kingdom, and includes almost 11,500 hours of video material. On this basis, it is clear to me that online content delivery is a major proponent of the Complainant’s business.

6.13 The Complainant has also provided evidence that the Domain Name, at the time of the complaint being raised, resolved to a website that purported to host or provide links to digital material related to the businesses owned and operated by the Complainant. Though the Domain Name does not currently resolve to a website purporting to host or provide links to digital material related to the Complainant’s business, my assessment at this time is related to the Respondent’s intended purpose of acquiring the Domain Name, and not its current use. In the absence of any current use of the website resolved to at the Domain Name, or any response from the Respondent to this complaint, I am only able to conclude that hosting or providing links to digital material related to the Complainant’s business was the primary purpose of the Respondent’s registration or acquisition of the Domain Name.

6.14 Further to this, I have established that the Domain Name in question is identical or similar to a trademark which the Complainant has rights in, and

that this trademark is one which the public are likely to associate exclusively with the Complainant. It stands to reason therefore that a potential customer of the Complainant, searching the internet for digital content relating to the Complainant's business, is likely to encounter the website resolved to at the Domain Name, currently held by the Respondent. When a customer is then presented with digital content related to the Complainant, it is reasonable to consider that they may access this content, instead of continuing their search until they encounter the digital content offered by the Complainant. As a result, the Complainant would therefore lose the opportunity to sell its digital content to potential customers, and their business in online content delivery would therefore be disrupted.

6.15 In the light of this evidence and analysis, and in the absence of any argument from the Respondent to the contrary, I therefore consider that the Respondent registered or acquired the Domain Name in question for the primary purpose of unfairly disrupting the Complainant's business of online content delivery. As a result I conclude that the registration of this Domain Name is an Abusive Registration, as set out in the DRS Policy.

6.16 For clarity, other factors listed in the DRS Policy that I might have considered in coming to a decision, but have not on this occasion, are:

"5.1.2 Circumstances indicating that the Respondent is using or threatening to use the Domain Name in a way which has confused or is likely to confuse people or businesses into believing that the Domain Name is registered to, operated or authorised by, or otherwise connected with the Complainant;"

## **7. Decision**

7.1 I find that the Complainant has Rights in a name, which is identical to the Domain Name, and that the Domain Name, in the hands of the Respondent, is an Abusive Registration.

7.2 Therefore I direct that the Domain Name be transferred to the Complainant.

**Signed .....**

**Dated .....**