

DISPUTE RESOLUTION SERVICE

D00022679

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

POINTIS SOLUTIONS LIMITED

and

Tank Internet Hizmetleri Paz. A.s

1. The Parties:

Complainant: POINTIS SOLUTIONS LIMITED

Respondent: Tank Internet Hizmetleri Paz. A.s

2. The Domain Name:

bascuda.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 bascuda.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)

Abusive Registration

The Complainant's case is not particularly well defined, but appears to be in two parts:-

- a) that the Domain Name is "related" to its brand and it would like to use it; and/or
- b) its customers will search for the Domain Name and will reach a "hosting landing page".

It is insufficient that the Domain Name is identical/similar to the Rights (or "related", in the language of the Complainant) for a finding of an Abusive Registration. That satisfies only (4) above. In order to establish that the Domain Name in the hands of the Respondent is an Abusive Registration, the Complainant must show that the Domain Name 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.

In relation to (i), it is relevant that the Rights relied upon by the Complainant post-date the Registration of the Domain Name. Further, there is no evidence that at the time of Registration, the Respondent knew (or ought to have known) of the Complainant and/or its products. As such, the requirements of (i) are not met.

Turning to (ii), it is the Complainant's argument under (b) that is relevant. It appears that the Complainant is intimating that its customers are being misled and/or confused. There is no evidence provided to support this argument. I have however visited the Domain Name and at the time of my visit the content did not appear to refer to the Complainant and/or its products, did not appear to refer to a competitor and did not appear to have any other content that could be objectionable to the Complainant. Any person searching for the Complainant who ended up on such page would instantly know that s/he was 'in the wrong place'. On the facts, and without any evidence, this is not a case in which 'initial interest confusion' is relevant. As such, (ii) above is not satisfied.

In reaching this Decision, I have taken note of the findings of the Appeal Panel in DRS 20412 (www.equest.co.uk) and in particular as set out at page 10 and at the third paragraph onwards of page 13.

8. Decision

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

Signed:

Dated: 15 July 2020

Catherine Slater