

**DISPUTE RESOLUTION SERVICE**

**D00012827**

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

**Greenacres Groups Limited**

and

**Mr Tom Peterson**

**1. The Parties:**

Lead Complainant: Greenacres Groups Limited  
105 Duke Street  
Liverpool  
Merseyside  
L1 5JQ  
United Kingdom

Respondent: Mr Tom Peterson  
103 Stoke Road  
Kent  
ME3 9BH  
United Kingdom

**2. The Domain Name(s):**

greenacres.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 paragraphs 2 and 4 of the Procedure.

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 greenacres.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)

The Complainant describes itself as a “woodland burial business”. It says that it started using the name “Greenacres” on 30 May 2012, following a rebrand.

The whois information for greenacres.co.uk (“the Domain Name”) shows a creation of date 26 February 2007 and, in the absence of evidence to the contrary, I must assume that the Respondent registered the Domain Name on that date and is not a more recent transferee.

Given that the Respondent registered the Domain Name some five years before the Complainant started using the name “Greenacres”, the Domain Name cannot have been registered or acquired in an abusive manner per the first limb of the definition of “Abusive Registration” of the DRS Policy.

Has the Domain Name been used abusively thereafter?

There is no evidence that the Domain Name has ever been used for a website.

The Complainant claims that it offered the Respondent 500 Euros for the Domain Name via Sedo but that the Respondent “declined to respond” to the approaches, thereby “acting to entice maximum profit” from the Domain Name. This submission involves a number of unwarranted logical leaps. The Respondent may simply not have received the messages, rather than actively deciding to ignore them. If the Respondent did make a positive decision not to respond, that may simply have been because he was not interested in selling the Domain Name at that time. And, even if the Respondent did indeed form the intention of eliciting a higher offer from the Complainant, that of itself is unobjectionable where sale to Complainant cannot have been within the Respondent’s contemplation on acquisition of the Domain Name. See, e.g., paragraph 3.2 of the DRS Expert Overview on Nominet’s website.

The Complainant suggests that the Respondent has no interest in using the Domain to promote any current business and says it believes that he will not do so in future. That can only be speculation on the Complainant’s part but, in any case, paragraph 3b of the DRS Policy states that failure to use a domain name for email or a website is not of itself evidence of abusive registration.

The Complainant acknowledges that the Domain Name is not “directly” causing damage to it because there is no website. However, the Complainant claims that it should be entitled to use it as it owns the “copyright” (presumably meaning the trade mark) and that the Respondent is indirectly affecting its ability to maximise its trade mark. This submission evinces a fundamental misunderstanding of the concept of “abusive registration”, which is not concerned with whether one party has some higher form of entitlement to a domain name than another. Rather, the Complainant is required to demonstrate that, on the balance of probabilities, the Respondent either registered or used the Domain Name in a way which was unfair vis-à-vis the Complainant’s rights, for example by intentionally disrupting the Complainant’s business or threatening to do so. And there is no such evidence whatever in this case. All we have is silence and inaction on the part of the Respondent.

For the above reasons, the Complainant has failed to establish abusive registration in this case.

## 8. Decision

Transfer	<input type="checkbox"/>	No action	<input checked="" type="checkbox"/>
Cancellation	<input type="checkbox"/>	Suspension	<input type="checkbox"/>
Other (please state)	<input type="checkbox"/>		

Signed: Adam Taylor

Dated: 21 June 2013