

## **Dispute Resolution Service**

**DRS 25766**

### **Decision of an Independent Expert**

**Quick Credit Limited**

**and**

**Quick Loans Ltd**

#### **1. Parties**

Lead Complainant: Quick Credit Limited  
82 Dartmouth Park Hill  
London  
N19 5HU  
United Kingdom

Complainant: Mr Michael Toth  
Ilkley  
United Kingdom

Complainant: Mr Jim Davies  
London  
N19 5HU  
United Kingdom

Respondent: Quick Loans Ltd  
Ground Floor  
28 Peel Street  
Barnsley  
S70 2QX  
United Kingdom

#### **2. Domain Name**

quickquid.co.uk (the "Domain Name")

### **3. Procedural Background**

On 26<sup>th</sup> May 2023, the Complaint was lodged with Nominet UK Limited (“Nominet”) and it was validated on 30<sup>th</sup> May 2023. On 30<sup>th</sup> May 2023, Nominet sent the Notification of the Complaint letter to the Respondent by e-mail and post, advising the Respondent to log into Nominet’s online services to view the details of the Complaint, and giving the Respondent 15 business days within which to lodge a Response on or before 20<sup>th</sup> June 2023. On 31<sup>st</sup> May 2023 the Respondent responded. On 31<sup>st</sup> May 2023 Nominet informed the Lead Complainant that the Response was available to be viewed via the Complainant’s online services account, and invited it to Reply to the Response on or before 7<sup>th</sup> June 2023. On 5<sup>th</sup> June 2023, Nominet sent a Reply reminder. On 7<sup>th</sup> June 2023, the Lead Complainant replied. On 8<sup>th</sup> June 2023 Nominet sent a Notification of reply to the parties.

Mediation documents were generated for the Complaint, and mediation commenced on 8<sup>th</sup> June 2023. Mediation was unsuccessful and concluded on 12<sup>th</sup> June 2023 when Nominet sent the Close of mediation documents to the parties.

On 26<sup>th</sup> June 2023, the Lead Complainant paid the appropriate fee for a Decision to be made by an Expert pursuant to paragraph 6 of Nominet’s Dispute Resolution Service (“DRS”) Policy (“the Policy”). On 5<sup>th</sup> July 2023, Mr Niall Lawless (“the Expert”) was appointed to act as Expert in this dispute and he is required to give his Decision by 26<sup>th</sup> July 2023. The Expert has confirmed that he is independent of each of the parties, and that to the best of his knowledge and belief, there are no facts or circumstances, past or present, or that could arise in the foreseeable future, that need to be disclosed as they might be of such a nature as to call in to question his independence in the eyes of one or both of the parties.

### **4. Outstanding Formal or Procedural Issues**

- 4.1 During the Procedural Background as outlined in paragraph 3 above, the Lead Complainant asked Nominet to apply its discretion under DRS Policy Rule 24.1, to extend the time for paying the fee for a DRS Expert to be appointed until such time as the trademark application UK00003899399 for QUICKQUID has been determined by the intended Opposition proceedings; or if those proceedings were not taken out, by the grant of the trademark. ‘General powers of Nominet and the Experts’ Rule 24.1 provides that Nominet may in exceptional cases extend any period of time in proceedings under

the DRS. On 29<sup>th</sup> June 2023, Nominet confirmed its decision declining the extension of time requested by the Lead Complainant. Nominet's reason was that the circumstance of the dispute was not an exceptional case, but one involving *"the business-as-usual factual matrix against which the DRS policy has to be applied. This is sometimes complex as we all know and as can be seen in the DRS decisions quoted"*. Nominet has provided the Expert with the Parties' e-mail exchange, submissions and evidence, which the Expert has considered.

- 4.2 On 29<sup>th</sup> June 2023, the Respondent asked Nominet if it could place a *"Non-Standard Submission before the Expert for consideration ..."*. The Respondent explained: *"We only became aware of the document after we had submitted our evidence. The Document linked to and quoted from in this submission is of such relevance and authority that we believe it would have a significant bearing on this complaint. We understand that the inclusion is at the Expert's discretion."* The Expert has decided that the Non-Standard Submission will not assist him in making his decision, and he has not requested access to it.

## **5. Factual Background**

The Lead Complainant, Quick Credit Limited, was incorporated as a private limited company in the UK on 10<sup>th</sup> April 2023. The company number is 14790877, and its registered office address is 82 Dartmouth Park Hill, London, England, N19 5HU. The Lead Complainant is the transferee of the Domain Name in the event that the Complaint succeeds.

The Complainant, Mr Michael Toth, is an individual who has registered domain names for investment purposes.

The Complainant, Mr Jim Davies, is an individual and a solicitor.

The Respondent, Quick Loans Ltd, was incorporated as a private limited company in the UK on 2nd June 2015. The company number is 09619094, and its registered office address is Ground Floor, 28 Peel Street, Barnsley, England, S70 2QX.

On 22<sup>nd</sup> February 2023, the Respondent submitted a DRS Complaint in respect of the Domain Name, which was validated by Nominet on 24<sup>th</sup> February 2023. On 6<sup>th</sup> April 2023, DRS Expert Mr Bob Elliott made a Summary Expert Decision that the Domain Name would be transferred from the then current Registrant Casheuronet UK, LLC 483 Green Lanes, London N13 4BS United Kingdom to the

Respondent. On 25<sup>th</sup> April 2023, the Domain Name was transferred to the Respondent. The fees involved in that DRS Complaint were paid by the Respondent.

## **6. The Parties' Contentions**

### The Complainants

The Lead Complainant seeks transfer of the Domain Name. The Complainants say that the Domain Name controlled by the Respondent is an Abusive Registration under the Policy because:

- The Lead Complainant was established as a joint venture between the Complainants and the Respondent, and the Domain Name was acquired to be used by the Lead Complainant. The current registration is in breach of the agreement between the Complainants and the Respondent, which is in breach of paragraph 5.1.5 of the Policy.
- The Respondent is selling the Domain Name to a competitor, either alone or as part of a larger business transaction, for a sum larger than its out-of-pocket expenses, which is in breach of Paragraph 5.1.1.1 of the Policy.
- The Respondent is blocking the Complainant's right to do business using the Domain Name, which is in breach of paragraph 5.1.1.2 of the Policy.
- The Respondent is Unfairly Disrupting the Complainant's business, because the agreed planned activity was for the Lead Complainant to operate the Domain Name and related intellectual property and it cannot do so without the Domain Name; which is in breach of paragraph 5.1.1.3 of the Policy.
- The Domain Name is an exact match of both the trademark rights and contractual rights that vest in the Lead Complainant, which is in breach of paragraph 5.1.6 of the Policy.

### The Respondent

The Respondent says that the Domain Name controlled by it is not an Abusive Registration under the Policy because:

- It is a fiction that the Lead Complainant was established as a joint venture between the Complainants and the Respondent, and that the Domain Name was acquired to be used by the Lead Complainant. There was no such agreement, and in this dispute the Complainants are presenting false information.

- The Lead Complainant is not a competitor of the Respondent, because the Lead Complainant has no customers and no website. If the Lead Complainant was a competitor, then it is trading illegally in breach of the Financial Services and Markets Act 2000. In any event, the Domain Name is not being sold; only the sale of Mr Graeme Wingate's equity in the Respondent was being discussed with a third party. Consequently, any contractual claims the Lead Complainant has with the Respondent would not be affected.
- The Respondent is not blocking the Complainant's right to do business using the Domain Name, because the Lead Complainant has never conducted business, nor is in any shape to do business.
- The Respondent is not Unfairly Disrupting the Complainant's business, because the Complainants did not complete the tasks/payment for an agreement to become active. Accordingly, there was no completed agreement.
- The Respondent says that it disputes that the Lead Complainant has rights, and that any claims of rights are disputed by it. The Respondent says that Complainants did not complete the tasks/payment for an agreement to become active.

## **7. Discussions and Findings**

### **7.1 General**

The Policy requires that for a Complaint to succeed, the Complainants must prove to the Expert on the balance of probabilities that:

- i. the Complainants have Rights in respect of a name or mark which is identical or similar to the Domain Names; and
- ii. the Domain Name, in the hands of the Respondent, are an Abusive Registration.

Rights include, but are not limited to, rights enforceable under English Law.

In order to show that the Domain Names are an Abusive Registration, the Complainant must prove, on the balance of probabilities, that the Domain Names either:

- i. 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. has been used in a manner, which took unfair advantage of or was unfairly detrimental to the Complainant's Rights.

### **7.2 Complainants' Rights**

#### **Complainants**

The Complainants say that the Respondent secretly recorded business telephone calls. The Complainants say that as they have not heard the vast majority of the secretly recorded calls, they do not give consent for all of those calls to be heard by third parties or placed in evidence. The Complainants say that the recordings were made in breach of data protection law and also in breach of confidence, and having not heard them, it is implausible for the Complainants to be asked to give their consent. The Complainants give strictly limited permission for five calls as set out in the Reply Annex 5 to be entered into evidence and heard by the Expert. They do not give consent to publishing the calls in public.

The Complainants say that the Domain Name had previously been used by CashEuronet UK LLC, a Delaware registered company trading in the UK and registered at Companies House as an overseas company. However, Casheuronet UK, LLC, went into administration which was completed in October 2022, and the company was later dissolved.

The Complainants say that in January 2023, Mr Graeme Wingate contacted Mr Jim Davies by telephone, asking for advice on bringing a DRS Complaint in respect of the Domain Name. The Complainants say that Mr Wingate was offered the opportunity to pay a fixed fee, either through a law firm with Mr Davies acting as a solicitor or alternatively a lower fee through Mr Davies' consultancy service. Mr Wingate chose the latter.

The Complainants say that two avenues were discussed which might lead to Mr Graeme Wingate, Mr Jim Davies and Mr Michael Toth taking control of the Domain Name.

One path was to submit a DRS Complaint in respect of the Domain Name, based on evidence of confusion between the Domain Name and the Respondent. When Mr Wingate mentioned that the Respondent had received communications about "Quick Quid", the confusion argument was formulated by Mr Davies as a way of establishing abusive registration in the DRS. Mr Davies expected to have to prepare the DRS Complaint along those lines, having been told by Mr Wingate that the Domain Name would otherwise "drop" in March. Mr Wingate did not pay for Mr Davies' services, nor did he enter into a client care letter with Mr Davies.

Another path was to contact Casheuronet UK, LLC's administrators Grant Thornton LLP, to ascertain if the Domain Name could be purchased.

The Complainants say that on 20<sup>th</sup> January 2023, Mr Wingate telephoned Mr Michael Toth to tell him that there was a deal coming together. Mr Wingate outlined a plan to obtain trademarks and to submit a DRS Complaint in respect of the Domain Name, which he said needed to be filed by mid-February 2023. Mr Davies was not involved with the matter throughout February 2023.

The Complainants say that on or around 24<sup>th</sup> February 2023, the Respondent filed a DRS Complaint for the Domain Name, drafted by Mr Wingate, and which led to DRS Expert Mr Bob Elliott's 6<sup>th</sup> April 2023 Summary Expert Decision, that the Domain Name would be transferred to the Respondent.

The Complainants say that the DRS Complaint relied on a claim of confusion, which Mr Davies had suggested was the strongest claim. The Complainants say that whereas Mr Davies was not asked to prepare the DRS Complaint, without the skill and knowledge shared by Mr Davies in the initial January telephone call, the Respondent would not have claimed confusion, which was the basis of the claim's success. The Complainants say that if Mr Wingate already had this knowledge, he would not have needed to consult with Mr Davies and Mr Toth, and that Mr Wingate subsequently stated that he knows he would not have gained control of the Domain Name without the help of Mr Davies. The Complainants say that without them suggesting the claim of confusion, there was no prospect of success. The Complainants say that Mr Wingate, Mr Davies and Mr Toth were all essential to the success of the venture.

The Complainants say that, on receipt of the 6<sup>th</sup> April 2023 Summary Expert Decision, Mr Wingate immediately forwarded the decision to Mr Davies. Mr Wingate then called Mr Davies, and during an approximately 50-minute telephone conversation the DRS outcome and the next steps to take were discussed. The Complainants say that Mr Toth was contacted soon afterwards, and this is entirely consistent with their contentions that Mr Wingate, Mr Davies and Mr Toth were already engaged in a joint venture.

The Complainants say that following the DRS Decision Mr Wingate, Mr Davies and Mr Toth, prepared for the likely transfer of the Domain Name. Firstly, they formed the Lead Complainant Quick Credit Limited, which was intended to be the vehicle that was to be used to own and operate the Domain Name and related intellectual property assets. The Complainants say that Mr Wingate proposed the company name of Quick Credit Limited, and each Shareholder took ownership of 1/3 of the shares. Mr Davies and Mr Toth were listed as directors of the company. The Complainants say that whereas

Mr Wingate asked not to be formally listed as a director, it was clearly understood that he would have an equal say in the management of the company and would be a shadow director instead.

The Complainants say that shortly after its formation, by agreement between the Shareholders, the Lead Complainant made the application for the “QUICKQUID” trademark. The Complainants say that much of the work done by Mr Davies on behalf of the Lead Complainant e.g., trademark application, and providing other services benefited from his being a qualified solicitor, acting as the company’s in-house counsel. Mr Davies consulted and informed both Mr Toth and Mr Wingate throughout and they were both fully aware of the time and effort that was being spent on behalf of the Lead Complainant. The Complainants say that all of work done by Mr Davies was being done consistently with the agreement that the Shareholders had already entered into, in anticipation of the transfer of the Domain Name being confirmed and then transferred to the Lead Complainant.

The Complainants say that the DRS appeal deadline passed without an appeal being filed and the Shareholders met in Ilkley shortly after that to confer on how to move forward. By this stage, progress had been made, for example:

- Quick Credit Limited had been formed with Mr Wingate, Mr Davies and Mr Toth (“the Shareholders”) each holding one third of the shares, identified as persons with significant control and engaging in a decision-making process where each of them had an equal say as directors.
- Quick Credit Limited had two QuickQuid domains registered in its name.
- Quick Credit Limited had applied for a new registered trademark, “QUICKQUID”.

The Complainants say that possible ways to develop the Domain Name were discussed. The basic idea was to try to build as strong an IP profile as possible to attach to the Domain Name and then monetise it in some way. The alternative of selling the Domain Name was also discussed.

The Complainants say that following the Respondent’s success with the DRS process, Mr Wingate mentioned the possibility of involving Mr Lewis Jackson, who had experience in developing and monetising financial domain names and websites in the same field that the Domain Name had previously operated in and which the Shareholders planned to target. However, based on the terms proposed by Mr Jackson, Mr Davies and Mr Toth rejected Mr Jackson’s offer and Mr Wingate outwardly accepted that rejection.



The Complainants say that on 4<sup>th</sup> May 2023, Mr Wingate sent an e-mail informing Mr Davies and Mr Toth that he had agreed to sell the Respondent to Mr Jackson, including for all the loan names owned by the Respondent minus the Doman Name, and that the sale would include Mr Wingate's shares in the Lead Complainant.

The Complainants say that by way of e-mail sent on 9<sup>th</sup> May 2023, Mr Wingate informed Mr Davies and Mr Toth that he would not be transferring the Domain Name to the Lead Complainant, and that he would be selling the Respondent in the next few days.

The Complainants say that when Mr Wingate was pressed to complete the transfer of the Domain Name to the Lead Complainant, Mr Wingate refused, providing implausible reasons why. The Complainants say that eventually, as each reason was dealt with, Mr Wingate simply said he would not transfer the Domain Name, which is in breach of his contractual obligations and also of his duties to the Lead Complainant. The Complainants say that it is telling that right up until his final refusal, Mr Wingate continued to acknowledge his obligations to the Lead Complainant and the other Shareholders.

The Complainants say that on 24<sup>th</sup> May 2023, Mr Wingate sent the Intellectual Property Office Form TM7A, filing a notice of threatened Opposition to the Trade Mark Application number UK00003899399.

On 26<sup>th</sup> May 2023, the Complaint was lodged with Nominet, whereby the Complainants seeks transfer of the Domain Name to the Lead Complainant.

#### Respondent

The Respondent says that Mr Graeme Wingate is currently the Respondent's sole director and shareholder, and that Mr Wingate has been buying and developing domain names for over 16 years.

The Respondent says that the Complainants are attempting to use the DRS as a quick venue to resolve a dispute which should be decided by a civil court. The Respondent says that it has reasonable concerns that Mr Davies and Mr Toth have either entered into a contract in bad faith with false promises and/or broken the contract entirely. The Respondent says that the allegations made by Mr Davies are highly defamatory and give grounds for civil action by Mr Wingate. The Respondent says the Complainants are attempting to obtain intellectual property by deception, and that complaints to

the police and the SRA will follow. The Respondent says that this is a civil law matter, with parties going on oath and making statements of truth, procedures on disclosure, witnesses, statements protected by absolute privilege, etc. The Respondent says this is not a dispute that Nominet can resolve through the DRS process, and that it would be unfair on either party and the Expert to start attempting to unpick areas of law that are not their speciality.

The Respondent says that after Mr Davies wrote this DRS Complaint, Mr Wingate informed the Complainants that all telephone calls involving Mr Wingate's personal phone had been recorded, and that these records prove that the Complainants stories were a fabrication. The Respondent says that all telephone calls were recorded on Mr Wingate's personal phone with an app that is constantly on. The Respondent gives its permission for the calls to be heard. The Respondent says that calls recorded without the other party's knowledge cannot be submitted to a third party without consent. The Respondent says that every single contentious issue in this dispute can be judged by the Expert if the Complainants Mr Toth and Mr Davies give their consent for those calls to be placed into evidence. The Respondent says that if Mr Toth and Mr Davies do not consent, the Expert should draw an adverse conclusion from that.

The Respondent says that the initial idea of making the 22<sup>nd</sup> February 2023 DRS Complaint was Mr Wingate's idea, and that when on 16<sup>th</sup> January 2023, Mr Wingate first contacted Mr Jim Davies it was with the intention of Mr Davies writing the DRS Complaint for him. The Respondent says that the terms offered by Mr Davies were that it would cost £2,500 "mates rates" and that Mr Davies had an agreement with his firm which allowed him to take on extra work. The Respondent says that at that time there was no hint of any 1/3 split or partnership of any kind. The Respondent says that Mr Wingate declined the proposed payment of £2,500, and that later on 16<sup>th</sup> January 2023 he texted Mr Davies to hold off. The Respondent says that there was no further contact between Mr Wingate and Mr Davies about the DRS Complaint until 7<sup>th</sup> March 2023.

The Respondent says that whereas Mr Toth claims the idea of filing a DRS Complaint was his idea and that Mr Wingate should speak to Mr Davies, this assertion is also rebutted by the recorded telephone calls. The Respondent says that Mr Toth has been given a copy of the call recording, and that from this it is clear that the first time Mr Wingate mentioned "QuickQuid.co.uk" to Mr Toth was on 20<sup>th</sup> January 2023. As this was days after Mr Wingate and Mr Davies spoke, logically the idea for the DRS Complaint could not have been Mr Toth's.

The Respondent says that the first time that a possible partnership in any form was raised was on 7<sup>th</sup> March 2023, which was after the DRS Complaint was filed. The Respondent says that as its DRS Complaint was filed on 22<sup>nd</sup> February 2023, it is impossible for this Complaint to have been made with the Complainants in mind.

The Respondent says that any hint that the 22<sup>nd</sup> February 2023 DRS Complaint was filed with the Complainants in mind is irrational. The Respondent says that the time line of events does not support the Complainants' version of events; the written evidence does not support their version of events. The Respondent says that the calls (if permission to listen to them is granted by the Complainants) do not support their version of events.

The Respondent says that the Lead Complainant is a company that was established some 7 weeks after 22<sup>nd</sup> February 2023, when the Respondent submitted a DRS Complaint, and around 1 week after the 6<sup>th</sup> April 2023 DRS Summary Expert Decision. The Respondent says that the Lead Complainant has no website, no customers, no licences with any trade body, no transactions, and no shareholders' agreement.

The Respondent says that Mr Wingate has no recollection of agreeing to be a shadow director in the Lead Respondent, nor is there any evidence in this dispute that Mr Wingate opted into this position.

The Respondent says that on 7<sup>th</sup> March 2023, Mr Wingate entered into an agreement with Mr Toth and Mr Davies about buying either the Domain Name or anything else of value from the administrator. The Respondent says that Mr Wingate did not enter into a contract with the Lead Complainant. The Respondent says that any arguments Mr Toth and Mr Davies have about rights from a 7<sup>th</sup> March 2023 agreement being transferable into a new entity before any due diligence was done by the Respondent should be debated in the civil court.

The Respondent says that Mr Toth and Mr Davies either accidentally or deliberately deceived Mr Wingate on a number of issues. The Respondent says that Mr Davies made two performance promises in the 7<sup>th</sup> March 2023 agreement, but that neither of these were completed. The Respondent says that Mr Davies neither contacted the administrators Grant Thornton LLP. The Respondent says that although he promised to, Mr Davies did not review and alter the 22<sup>nd</sup> February 2023 DRS Complaint,

nor did he complete a Non-Standard Submission. The Respondent says that without these two performance promises, Mr Wingate would not have entered into an agreement with them.

The Respondent says that these facts only became apparent to the Respondent and its advisors during due diligence checks when they became suspicious after Mr Davies and Mr Toth became more and more desperate to have the name transferred immediately before the advisors completed their checks.

The Respondent says that the Complaint should be rejected as it fails to show grounds for an Abusive Registration.

#### Expert's reasoning and decision

The DRS - Experts' Overview Version 3, at paragraph 2.2 "What is required for a Complainant to prove that he/she/it "has rights" in paragraph 2.1.1 of the Policy?" states *"If the right is an unregistered trade mark right, evidence needs to be put before the Expert to demonstrate the existence of the right. This will ordinarily include evidence to show that (a) the Complainant has used the name or mark in question for a not insignificant period and to a not insignificant degree (e.g. by way of sales figures, company accounts etc.) and (b) the name or mark in question is recognised by the purchasing trade/public as indicating the goods or services of the Complainant (e.g. by way of advertisements and advertising and promotional expenditure, correspondence/orders/invoices from third parties and third party editorial matter such as press cuttings and search engine results).*

*If the right is a contractual right, the Expert will need to see evidence of the contract."*

Whereas on 11<sup>th</sup> April 2023, the Lead Complainant applied for the UK Trademark < QUICKQUID> under class 35 online marketing and other related services (number UK00003899399), on 24<sup>th</sup> May 2023 the Respondent filed a Notice of Intention to Oppose the Trademark Application. Currently, the Lead Complainant does not have a trademark for the name < QUICKQUID>, nor has it demonstrated use of name < QUICKQUID> as indicating the goods or services of the Complainant.

However, although in this dispute the Lead Complainant argues that it has contractual rights, it has failed to demonstrate that contractual rights exist.

#### January 2023

There is scant evidence that in January 2023, when Mr Wingate and Mr Davies talked, the Respondent had a compelling or substantial problem of Domain Name abuse that needed be resolved. Rather, to the Expert, it seems that that the conversation was based on weaponising the DRS to gain control of the Domain Name at little cost.

In respect of abuse, the Complaint states only: *“Mr Wingate mentioned that Quick Loans had received communications about Quick Quid. Mr Davies said that this showed confusion and was a way of establishing abusive registration in the DRS.”*

In addition, in his 6<sup>th</sup> April 2023, Summary Expert Decision Mr Bob Elliott comments: *“I have decided in favour of the Complainant on the balance of probabilities as the Complaint is undefended and the Complainant has referred to previous customer confusion, suggesting that the Domain Name has been used in a field similar to that of the Complainant. However, the Complaint is weak and the assertions by the Complainant are largely unsupported by evidence. If the Complaint had been contested this lack of evidence could have counted against the Complainant.”*

As a respected solicitor Mr Davies can be taken to understand that in the UK it is trite law that a contract requires offer, acceptance, consideration, and the intention to create legal relations. In this dispute the Complainants have not offered evidence that in the January 2023 telephone conversations equal joint ownership of the Domain Name was discussed and agreed. The Complainants merely assert that without the skill and knowledge shared by Mr Davies in the initial January telephone call, the Respondent would not have claimed confusion, which was the basis of success in the 6<sup>th</sup> April 2023 Summary Expert Decision, that the Domain Name would be transferred to the Respondent.

#### March 2023

On 7<sup>th</sup> March 2023, there was an e-mail chain between Mr Davies and Mr Wingate. One e-mail from Mr Davies to Mr Wingate and Mr Toth time-stamped 8.29 am states:

*“Guys*

*We have spoken on a few occasions about this domain and the company behind it.*

*My understanding is that there are a number of people interested in securing the domain name. I also understand that, after I spoke with Graeme, you filed a DRS yourself. I am told that more than one DRS has been filed for this domain.*

*There are a number of things that I think I could help you with to get the name. Before I do that, I want the basis of the arrangement to be clear between all three of us.*

*I am happy to make approaches to the administrator to try to secure various assets of the company that is behind the domain name that is either in the latter stages of administration or is in the process of being struck off. If that does not work, I will review and if necessary (and if possible) revise the DRS that has been filed by Graeme.*

*If we are able to buy either the domain or anything else of value from the administrator, between you, you will pay up to £10,000 for them. If the price is higher, we will discuss and decide what to do.*

*If we secure the domain name or any other related assets, we will take them in three equal shares. It may well be that the way to do that would be to form a company and take 1/3 of the shares each. I don't want to get bogged down worrying about how that is done at this point, as it is hypothetical, but as long as there is a clear agreement about the shares that is what we need at this point.*

*Please let me know what you are thinking, before I take any steps to try to secure the name.”*

Shortly afterward on 7<sup>th</sup> March 2023, Mr Wingate replied to Mr Davies and Mr Toth in an e-mail time-stamped 8.43 am which states:

*“Hi Jim*

*The other people who possibly raised the issue of DRS may not have filed one. I've never been able to get to the bottom of it, Over the last few days I'm starting to doubt anyone else has filed anything other than myself. I'll get to the bottom of it within the next day or two. In principle I'm happy with the 1/3 split idea. My personal thoughts are that it's worth 100k at least. Whether we'd split it or run it ourselves as an ongoing thing we can discuss. I bought the Cheque Centre domain name and it wasn't a 5<sup>th</sup> of the size of Quick Quid, it's probably already recouped 100k in 3 years. I know Lee makes a fortune from WageDayAdvance.co.uk it was offline for 3 years before he bought it after it dropped, Sunny.co.uk is another. There is no ongoing cost to running it as a going concern. I'd say this would bring in about 10-15k a month at a guess. So there would be question of whether or not you two wanted a quick sale or wanted to ride it for a long term income. I'm happy with what the majority would want to do. It's a detail thing for later. In principle I'm happy with the 3 way split on whatever we can get from the name. Yep thumbs up from me.*

*Cheers Graeme”*

As it was later on 10<sup>th</sup> April 2023, that the Lead Complainant was incorporated as a private limited company in the UK, it is logically incongruous that the Lead Complainant acquired contractual rights

via the 7<sup>th</sup> March 2023 e-mail exchange. As the Complainants seek the transfer of the Domain Name to the Lead Complainant, their complaint is fundamentally flawed and fails on that basis alone.

The 7<sup>th</sup> March 2023 e-mail from Mr Davies to Mr Wingate and Mr Toth time stamped 8.29 am states: *“There are a number of things that I think I could help you with to get the name.”*

The e-mail goes on to outline that Mr Davies would:

- Approach Grant Thornton LLP, to try to secure various assets which had previously been owned by Casheuronet UK, LLC. Mr Davies suggested that if it was possible to purchase the Domain Name or anything else of value from the administrator, Mr Wingate, Mr Davies and Mr Toth would pay up to £10,000, but if the price was higher, they would discuss and decide what to do.
- Review and if necessary (and if possible) revise the DRS Complaint that was filed by the Respondent on 22<sup>nd</sup> February 2023.

As events turned out, Mr Davies did not revise the 22<sup>nd</sup> February 2023 DRS Complaint, nor did Mr Wingate, Mr Davies and Mr Toth purchase the Domain Name via an approach to Grant Thornton LLP. The Respondent gained control of the Domain Name via the 6<sup>th</sup> April 2023, Summary Expert Decision.

In Mr Davies 7<sup>th</sup> March 2023 e-mail to Mr Wingate and Mr Toth, Mr Davies states: *“If we secure the domain name or any other related assets, we will take them in three equal shares. It may well be that the way to do that would be to form a company and take 1/3 of the shares each.”*

This emphasises that at 7<sup>th</sup> March 2023, the formation of the Lead Complainant was hypothetical.

The Expert interprets the 7<sup>th</sup> March 2023 e-mail exchange as an agreement whereby Mr Wingate, Mr Toth, and Mr Davies would equally share rights in the Domain Name if they purchased it via Grant Thornton LLP. As set out in his 7<sup>th</sup> March 2023 e-mail, Mr Davies did not help the Respondent gain control of the Domain Name.

The Expert does not interpret the 7<sup>th</sup> March 2023 e-mail exchange as an agreement that if the Respondent succeeded in its 22<sup>nd</sup> February 2023 DRS Complaint, Mr Wingate, Mr Toth, and Mr Davies would equally share rights in the Domain Name. The 7<sup>th</sup> March 2023 e-mail exchange is vague and uncertain as to whether it covers and includes the successful outcome of the Respondent’s 22<sup>nd</sup>

February 2023 DRS Complaint. If that was what Mr Davies intended, he should have explicitly stated so, thus providing the basis for contractual rights.

The Complainants seek transfer of the Domain Name to the Lead Complainant. Based on the evaluation of the evidence presented, the Expert decides that the Lead Complainant has not demonstrated Rights in respect of a name or mark that is identical or similar to the Domain Name.

#### 7.4 Conclusion

The Expert finds on the balance of probabilities that the Complainants do not have Rights in respect of a name or mark identical or similar to the Domain Name.

#### 8. **Decision**

For the reasons set out in detail above, the Expert directs that the Domain Name will therefore remain with the Respondent.

**Niall Lawless, Nominet Expert**

**19<sup>th</sup> July 2023**