

**DISPUTE RESOLUTION SERVICE**

**D00013930**

**Decision of Independent Expert**

Universal Protein Supplements Corporation d/b/a Universal Nutrition

and

Mr John Reyes

**1. The Parties**

Complainant: Universal Protein Supplements Corporation d/b/a Universal Nutrition  
New Brunswick, New Jersey  
United States

Respondent: Mr John Reyes  
Nottingham  
United Kingdom

**2. The Domain Name**

universalsuperiornutrition.co.uk

**3. Procedural History**

3.1 On 28 February 2014 the complaint was received. On 3 March 2014 the complaint was validated and notification of it sent to the Respondent. On 20 March 2014 a response reminder was sent to the Respondent. No response was received and on 25 March 2014 notification of this was sent to the parties. On 1 April 2014 the Expert decision payment was received.

3.2 I, Patricia Jones ("the Expert"), 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 was incorporated in 1983 in New Jersey, USA and is a worldwide provider of sports nutrition health products. The Complainant's sales are 4% of the sports nutrition health market in the United States and 7% of the global market. The Complainant's sales volume has totalled at least \$20 million each year since 2003 and its worldwide advertising expenditure has exceeded \$1million for each of the last 5 years. The Complainant has received awards for its products under the UNIVERSAL NUTRITION, ANIMAL PAK and UNIVERSAL brands.

- 4.2 The Complainant owns more than 70 worldwide trade mark registrations for UNIVERSAL (a device mark incorporating a body builder figure) and UNIVERSAL NUTRITION (for the word and for a swish design followed by the word) including the following:
- (a) US 3,020,559 for UNIVERSAL NUTRITION registered on 29 November 2005 in Class 5;
  - (b) US 3,020,560 for UNIVERSAL NUTRITION registered on 29 November 2005 in Class 29;
  - (c) US 3,020,562 for UNIVERSAL NUTRITION registered on 29 November 2005 in Class 30;
  - (d) US 3,020,563 for UNIVERSAL NUTRITION registered on 29 November 2005 in Class 35;
  - (e) Community Trade Mark no 5913017 for the UNIVERSAL NUTRITION device mark (swish design followed by the word) registered on 24 April 2008 in classes 5, 29, 30 and 35;
  - (f) Community Trade Mark no 5912861 for the UNIVERSAL device mark registered on 24 April 2008 in classes 5, 29, 30 and 35;
  - (g) US 3,555,885 for the UNIVERSAL device mark registered on 6 January 2009 in class 5; and
  - (h) US 3,568,919 for the UNIVERSAL device mark (in colour) registered on 3 February 2009 in class 5.
- 4.3 The Complainant uses the domain name universalnutrition.com which was registered on 22 July 1998. The Complainant owns more than 30 domain names which incorporate 'universal' and 'universal nutrition'.
- 4.4 The Complainant was in a previous dispute with a third party, Mr Nag, concerning the domain names universalsportnutrition.com and universalsportnutrition.co.uk. The Respondent acted as Mr Nag's representative in that dispute. The Complainant recovered universalsportnutrition.com when it was not renewed and filed a Nominet Dispute Resolution Service complaint (DRS 13694) for universalsportnutrition.co.uk. The day after this complaint was served, 7 January 2014, the Respondent registered the Domain Name and universalsuperiornutrition.com.
- 4.5 The Respondent states he is a non trading individual. The Domain Name resolves to a parking page which says the site is under construction and gives an e-mail address (@ the Domain Name) for more information.

## **5. Parties' Contentions**

- 5.1 I set out below a summary of what I regard to be the Complainant's main contentions. The Respondent has not served a response.
- 5.2 The Complainant submits that it has Rights in respect of a name or mark which is identical or similar to the Domain Name. The Complainant relies on its multiple federal trade mark registrations for UNIVERSAL and UNIVERSAL NUTRITION. The Complainant says the Domain Name is virtually identical to these marks and the addition of the descriptive word "superior" and of ".co.uk" to the Domain Name is insignificant. The Complainant states that descriptive words do not distinguish the Domain Name from the marks. The Complainant contends that the Domain Name is similar to the Complainant's UNIVERSAL and UNIVERSAL NUTRITION marks.

5.3 The Complainant submits that the Domain Name, in the hands of the Respondent, is an Abusive Registration:

- (a) The Complainant says the Respondent knew of the Complainant's UNIVERSAL and UNIVERSAL NUTRITION marks from at least July 2013. The Complainant asserts that the Respondent understands the significance of including the Complainant's marks in a domain name. The Complainant relies on statements made by the Respondent that universalsportnutrition.com and universalsportnutrition.co.uk are valuable domain names. The Complainant says the Domain Name, like these two domain names, incorporates 'universal' plus a descriptive word plus 'nutrition'.
- (b) The Complainant says it has no business relationship with the Respondent and that it has not permitted the Respondent to use the UNIVERSAL and UNIVERSAL NUTRITION marks. The Complainant states the Respondent registered the Domain Name more than 15 years after the Complainant registered its domain name and about 30 years after the Complainant began using its UNIVERSAL and UNIVERSAL NUTRITION marks. The Complainant says the Respondent registered the Domain Name when he was aware of the Complainant's Rights; that the Domain Name was registered without the Complainant's authority or knowledge; and that the Domain Name was registered to interfere with the Complainant's business.
- (c) The Complainant asserts that the Respondent has threatened to use the Domain Name for the competing business which previously operated from universalsportnutrition.com. The Complainant says this is an Abusive Registration pursuant to paragraph 3(a)(ii) of the Nominet Dispute Resolution Service Policy ("the Policy").
- (d) The Complainant says the Respondent has engaged in a pattern of registrations where the Respondent is involved with the registration of domain names that correspond to the Complainant's marks. The Complainant relies on the Respondent acting as a representative in the dispute concerning universalsportnutrition.com and universalsportnutrition.co.uk and the registration of the Domain Name and of univernalsuperiornutrition.com the day after the complaint in DRS 13694 was served. The Complainant says the Domain Name follows the same format of the earlier two domain names of 'universal' plus a descriptive or generic term plus 'nutrition'. The Complainant argues that the similarities in the domain names and the timing of the Domain Name registration mean the Respondent has engaged in a pattern of registrations under paragraph 3(a)(iii) of the Policy.
- (e) The Complainant says that no evidence exists to establish that the Domain Name is the legal name of the Respondent. The Complainant asserts that the Respondent is known as Mr John Reyes and that he is associated with a business called 'PCSuperfix'. The Complainant says it is aware of no evidence to suggest that the Respondent could have been commonly known by the Domain Name before the Complainant's federally registered rights for its UNIVERSAL and UNIVERSAL NUTRITION marks. The Complainant contends that the Respondent cannot satisfy paragraph 4(a)(i)(B) of the Policy as the Domain Name is not the Respondent's commonly known name, as evidenced by the WHOIS information.

## **6. Discussions and Findings**

6.1 Paragraph 2 of the Policy sets out that for a Complainant's complaint to succeed it

must prove to the Expert that:

- i. The Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Name; and
  - ii. The Domain Name, in the hands of the Respondent, is an Abusive Registration.
- 6.2 The Complainant is required to prove to the Expert that both the above elements are present on the balance of probabilities despite there being no response to the complaint.
- 6.3 I am satisfied that the complaint was properly notified and communicated to the Respondent in accordance with paragraphs 2 and 4 of the Nominet Dispute Resolution Service Procedure (“the Procedure”). In my view, the Respondent chose not to submit a response to the complaint. In this respect I note that delivery of the complaint by Royal Mail special delivery was refused. On 25 March 2014 the Respondent e-mailed Nominet in reply to the notification of no response but this did not address the complaint. On 8 April 2014 Nominet informed the Respondent of the further statement process in accordance with paragraph 13 of the Procedure. The Respondent replied by e-mail the same day as follows:

*“I nothing further to submit I acquired these domain names recently and suddenly these guys are on my case harassing me that I am infringing? There domain names were readily available to anyone, they simply want to block my every attempt to start up a supplement business, please consider this as their basis for their argument.”*

- 6.4 I consider the following paragraphs of the Procedure to be relevant:
- (a) Paragraph 15b: *“If, in the absence of exceptional circumstances, a Party does not comply with any time period laid down in the Policy or this Procedure, the Expert will proceed to a Decision on the complaint.”*
  - (b) Paragraph 15c: *“If, in the absence of exceptional circumstances, a Party does not comply with any provision in the Policy or this Procedure or any request by us or the Expert, the Expert will draw such inferences from the Party’s non-compliance as he or she considers appropriate.”*
  - (c) Paragraph 16a: *“The Expert will decide a complaint on the basis of the Parties’ submissions, the Policy and this Procedure.”*
- 6.5 I am therefore entitled to make a decision on the complaint, drawing such inferences from the Respondent’s failure to submit a response as I consider appropriate.

#### **The Complainant's Rights**

- 6.6 Under Paragraph 1 of the Policy, Rights is defined as *“rights enforceable by the Complainant, whether under English law or otherwise, and may include rights in descriptive terms which have acquired a secondary meaning”*. It is well accepted that the question of Rights falls to be considered at the time the Complainant makes its complaint and is a test with a low threshold to overcome.
- 6.7 As set out at paragraph 4.2 above, the Complainant is the owner of a number of registered trade marks throughout the world for UNIVERSAL NUTRITION. Some of these are for the word mark UNIVERSAL NUTRITION such as those cited at paragraph 4.2(a)-(d) covering supplements; soy-based food bars; protein based, nutrient-dense snack bars; chocolate based ready to eat food bars; rice cakes and on-line retail store services featuring health and diet-related products. The majority are for the swirl design followed by the words UNIVERSAL NUTRITION which appear prominently with ‘Universal’ above ‘Nutrition’.

- 6.8 On the face of it UNIVERSAL NUTRITION has some descriptive elements in relation to the Complainant's business of sports nutrition health products. However, I am satisfied that the Complainant owns Rights in the UNIVERSAL NUTRITION mark on the basis of the Complainant's trade mark registrations for UNIVERSAL NUTRITION and taking into account that UNIVERSAL NUTRITION forms a prominent part of the Complainant's registrations for the device mark.
- 6.9 Further, the Complainant has established that it has made significant use of the mark UNIVERSAL NUTRITION. The Complainant has adduced evidence from Mr Michael Rockoff, its Vice President (Marketing), of significant sales volume and advertising expenditure (see paragraph 4.1). The Complainant has also used the UNIVERSAL NUTRITION mark on the Complainant's website at universalnutrition.com. In exhibited correspondence from the Complainant's legal representative it is stated: *"Our client has been selling its products under the Universal Nutrition brand in the European Union including the UK for many years. Across the European Union, our client sells its products via a network of distributors and sells millions of dollars worth of product each year. These include substantial sales in the United Kingdom."*
- 6.10 I consider that the Complainant is the owner of goodwill in the UNIVERSAL NUTRITION mark through use of the mark and that this mark has become distinctive of the Complainant and its products. I am therefore satisfied that the Complainant also has unregistered Rights in the UNIVERSAL NUTRITION mark.
- 6.11 I regard the UNIVERSAL NUTRITION mark to be similar to the Domain Name (disregarding the .co.uk suffix). I do not consider the insertion of 'superior' between 'universal' and 'nutrition' in the Domain Name is sufficient to distinguish the Domain Name from the UNIVERSAL NUTRITION mark. The term 'superior' is merely a descriptive term and the dominant elements of the Domain Name are 'universal nutrition'.
- 6.12 Accordingly, I find that the Complainant has Rights in a name or mark, UNIVERSAL NUTRITION, which is similar to the Domain Name.

#### **Abusive Registration**

- 6.13 It now has to be considered whether the Domain Name, in the hands of the Respondent, is an Abusive Registration. Paragraph 1 of the Policy defines Abusive Registration as 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. has been used in a manner which has taken unfair advantage of or has been unfairly detrimental to the Complainant's Rights.
- 6.14 It is sufficient to satisfy either of these limbs for there to be a finding of an Abusive Registration.
- 6.15 Under paragraph 3(a)(i)(C) a non-exhaustive factor which may be evidence that the Domain Name is an Abusive Registration is circumstances indicating that the Respondent has registered the Domain Name primarily for the purpose of unfairly disrupting the business of the Complainant. This goes to the Respondent's motive for registering the Domain Name and it has to be established that the Respondent was aware of the Complainant and/or its Rights at the time of registration of the Domain Name.
- 6.16 In this case it is clear that the Respondent was aware of the Complainant and its

Rights prior to registration of the Domain Name. As Mr Nag's representative the Respondent had seen, prior to registration of the Domain Name, the correspondence from the Complainant's legal representatives relating to universalsportnutrition.com and universalsportnutrition.co.uk which asserted the Complainant's Rights to UNIVERSAL NUTRITION.

6.17 The dispute relating to these two domain names also forms the background to the registration of the Domain Name. In brief, Mr Nag operated retail premises in Nottingham under the name 'Universal Sport Nutrition' and operated a website from universalsportnutrition.com which offered for sale the Complainant's products and competing goods. Following correspondence from the Complainant's legal representatives this content was removed. The Respondent then became involved as Mr Nag's representative. In letters to the Complainant's legal representatives dated 4 July 2013 and 31 July 2013 the Respondent made the following statements:

- (a) *"We are currently creating the new website and logo's (some of which have already been transferred over to his temporary website) for Mr Nag where both of his domain names www.universalsportnutrition.com and www.universalsportnutrition.co.uk will both be pointed at in order to expand his business enabling his global ecommerce website and seven sport nutrition shops to benefit financially from these domain names..."*
- (b) *"The Value of these two domain names is unquestionably beyond any reasonable offer your client is ever likely to agree, especially as they would give extreme competition to USN products which are extremely well known throughout the internet and the global fitness industry and is a well known large established company."*
- (c) *"...we will continue to advise Mr Nag not to sell and build Mr Nags new www.universalsportnutrition.com and www.universalsportnutrition.co.uk website in order for his business plans to take website dominance and create an internet global business presence retailing high quality universal sport nutrition products (USN) of the highest quality that are well known globally throughout the fitness industry for many years."*
- (d) *"We have however already advised our client Mr Nag on the basis of revamping his websites and company expansion.....We also advised Mr Nag that only highly recommended suppliers such as USN products are of any benefit to his company revamp and expansion.....My client also has a high superior line of quality products suitable for brands that are renowned for effective nutrition delivery such as maxi muscle and USN..."*
- (e) *"My client Mr Nag is running a business solely from his own marketing strategies and is neither based upon your clients business or logo's or products, as stated Mr Nag runs a business like any other sport nutrition business."*

6.18 In an e-mail of 8 January 2014 to Nominet during the DRS13694 proceedings the Respondent made the following statement:

*"...additionally we have also obtained www.universalsuperiornutrition.com and [the Domain Name] which once again bares no reference to universalnutrition.....I personally now own www.universsuperiornutrition.com (sic) and [the Domain Name] of which I will run new business, if universalnutrition complain then I will go beyond Nominet and Icaan..."*

6.19 In his e-mail of 8 April 2014 to Nominet the Respondent stated that *"...they simply*

*want to block my every attempt to start up a supplement business...”*

- 6.20 Whilst the Respondent’s e-mails of 8 January 2014 and 8 April 2014 suggest the Domain Name was registered for the purpose of the Respondent’s new supplement business, I consider it likely the Domain Name was registered for the purpose of Mr Nag’s sport nutrition product business. As can be seen from paragraph 6.17 the Respondent was involved in creating website content for Mr Nag’s sport nutrition product business. The domain names *universalsportnutrition.com* and *universalsportnutrition.co.uk* were to be used for this content. The Domain Name and *universalsuperiornutrition.com* were registered after the Complainant had recovered *universalsportnutrition.com* and immediately after the DRS complaint was made for *universalsportnutrition.co.uk*. The timing of the registration of the Domain Name is consistent with it being registered for the purpose of Mr Nag’s business. I consider it likely that the Respondent was seeking alternative domain names for Mr Nag’s business which still used UNIVERSAL NUTRITION, as he appreciated there was a risk of also losing *universalsportnutrition.co.uk*. In the Respondent’s letter of 31 July 2013 he describes *universalsportnutrition.com* and *universalsportnutrition.co.uk* as “superior” domain names. I consider it likely that the Respondent replaced “sport” with “superior” in the domain names for intended use with Mr Nag’s sport nutrition product business.
- 6.21 In any event, whether the Domain Name was to be used for a new supplement business or Mr Nag’s business, I find that the Respondent registered the Domain Name for the purpose of a business which competes with that of the Complainant.
- 6.22 As set out at paragraph 6.9 above, the Complainant has established that it has made significant use of the mark UNIVERSAL NUTRITION and in my view this mark is distinctive of the Complainant and its products. In view of the similarity between the Domain Name and UNIVERSAL NUTRITION I consider there is a real risk that consumers searching online for the Complainant and its products will find the Respondent’s site. Given that ‘universal nutrition’ is the dominant element of the Domain Name and given that ‘superior’ is merely a descriptive indicator of quality, I consider that users would visit the Respondent’s site in the hope and expectation that the website is operated or authorised by or otherwise connected with the Complainant. Once at the Respondent’s site there is a risk that such users looking for the Complainant will be diverted into placing business with the Respondent (or Mr Nag) if the site is used for a competing business.
- 6.23 I therefore find that there is evidence that the Domain Name is an Abusive Registration under paragraph 3(a)(i)(C) of the Policy as the Respondent registered the Domain Name for the purpose of a competing business which would unfairly disrupt the business of the Complainant.
- 6.24 Under paragraph 3(a)(ii) of the Policy a non-exhaustive factor which may be evidence that the Domain Name is an Abusive Registration is 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.
- 6.25 The Respondent is currently using the Domain Name for a parking page. I have found that the Respondent registered the Domain Name for the purpose of a competing business and accordingly he has threatened to use the Domain Name for this purpose.

- 6.26 As set out at paragraph 6.22 above I consider there is a real risk that consumers searching online for the Complainant and its products will find the Respondent's site and will visit it in the hope and expectation that it is operated or authorised by or otherwise connected with the Complainant. The Experts' Overview<sup>1</sup> states that: *"This is what is known as 'initial interest confusion' and the overwhelming majority of Experts view it as a possible basis for a finding of Abusive Registration, the vice being that even if it is immediately apparent to the visitor to the web site that the site is not in any way connected with the Complainant, the visitor has been deceived."*
- 6.27 Accordingly, I consider the Respondent is currently using 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. Although users may appreciate that they have not found the Complainant when they reach the Respondent's site, the Respondent has still used the Domain Name in a way to cause initial interest confusion. Further if the Domain Name is used as threatened there is risk of users being initially confused into visiting the Respondent's site in the expectation of finding the Complainant and of then potentially being diverted into placing business with the Respondent (or Mr Nag).
- 6.28 I therefore find that there is evidence that the Domain Name is an Abusive Registration under paragraph 3(a)(ii) of the Policy.
- 6.29 The Complainant contends that there is evidence that the Domain Name is an Abusive Registration under paragraph 3(a)(iii) of the Policy because the Respondent is engaged in a pattern of registrations where the Respondent is the registrant of domain names (under .uk or otherwise) which correspond to well known names or trade marks in which the Respondent has no apparent rights and the Domain Name is part of that pattern. The Experts' Overview states that: *"The purpose behind this paragraph is to simplify matters for a Complainant, where the only available evidence against the registrant is that he is a habitual registrant of domain names featuring the names or marks of others."*
- 6.30 In this case, the Respondent owns the Domain Name and universalsuperiornutrition.com. However, the Complainant has not adduced any evidence that the Respondent owns any other domain names. The domain names universalsportnutrition.co.uk and universalsportnutrition.com were registered by a third party and there is no evidence to suggest that they were registered on the Respondent's behalf. On that basis I do not find that the Respondent is engaged in a pattern of registrations under paragraph 3(a)(iii) of the Policy.
- 6.31 Whilst I have found that there is evidence that the Domain Name is an Abusive Registration under paragraphs 3(a)(i)(C) and 3(a)(ii) of the Policy, I am also required to consider whether there are any factors which may be evidence that the Domain Name is not an Abusive Registration under paragraph 4 of the Policy.
- 6.32 Paragraphs 4(a)(i)(A) and 4(a)(i)(B) of the Policy state as follows:
- "Before being aware of the Complainant's cause for complaint (not necessarily the 'complaint' under the DRS), the Respondent has:*
- A. *used or made demonstrable preparations to use the Domain Name or a domain name which is similar to the Domain Name in connection with a genuine offering*

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<sup>1</sup> The Experts' Overview assists participant in disputes under the DRS Policy by explaining commonly raised issues and how Experts have dealt with those issues to date. It also draws attention to areas where Experts' views differ.

*of goods or services;*

*B. been commonly known by the name or legitimately connected with a mark which is identical or similar to the Domain Name.”*

6.33 Although the Domain Name is currently being used for a parking page I have found that the Respondent registered the Domain Name for the purpose of a nutrition product business so paragraph 4(a)(i)(A) of the Policy may apply if this is a genuine offering of goods or services. The Experts' Overview sets out that an offering of goods or services is not genuine where it is designed to take unfair advantage of or damage the Complainant's rights or business.

6.34 In DRS 13694 the Expert found that Mr Nag's<sup>2</sup> use of universalsportnutrition.com (which the Expert regarded to be similar to universalsportnutrition.co.uk) for offering the Complainant's product for sale alongside competing goods was not genuine for the following reasons:

*“The universalsportnutrition.com domain name was registered on 11 November 2012 in the name of Mr Nag. This was almost seven months after the Complainant, through its legal representatives, wrote to Universal Sport Nutrition, at the same address as that of the registrant of this domain name, complaining about the use of the mark UNIVERSAL SPORT NUTRITION in connection with the promotion and sale of nutritional supplements and related goods. The persons behind Universal Sport Nutrition could have challenged the merits of the claims made against them by the Complainant, but according to the Complainant (and not specifically denied by the Respondent) the Respondent's previously authorised representative eventually agreed to cease use of the term Universal Sport Nutrition on the website and rebrand to 'Union Sport Nutrition'; and*

*the likelihood, as noted above, that the Respondent had knowledge of the Complainant's UNIVERSAL NUTRITION mark at the time that it registered the Domain Name (and indeed even if this were not the case, the domain name universalsportnutrition.com was registered after the Complainant had contacted the Respondent in May 2012).”*

6.35 The Domain Name is similar to universalsportnutrition.com and still contains the UNIVERSAL NUTRITION mark. In view of the finding of the Expert in DRS 13694 I do not consider there can be a genuine offering of goods or services whether the Domain Name is used to carry on Mr Nag's competing business or a new competing business by the Respondent. I therefore do not consider that paragraph 4(a)(i)(A) of the Policy applies.

6.36 I am satisfied that the Respondent's name is Mr John Reyes and that he is associated with a business called 'PCSuperfix'. Accordingly, the Respondent is not commonly known by the name or legitimately connected with a mark which is identical or similar to the Domain Name under paragraph 4(a)(i)(B) of the Policy.

6.37 However, as I consider it likely that the Domain Name was registered for use with Mr Nag's business, paragraph 4(a)(i)(B) of the Policy may apply if Mr Nag is commonly known by the name or is legitimately connected with a mark which is identical or similar to the Domain Name.

6.38 In DRS 13694 the Expert said there was insufficient evidence to find that, on the balance of probabilities, Mr Nag has been commonly known by the name or

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<sup>2</sup> The respondent in DRS 13694 was Universal Sport Nutrition but the Expert treated the respondent and Mr Nag as the same entity (see paragraph 5.27 of the decision).

legitimately connected with a mark which is identical or similar to universalsportnutrition.co.uk. Mr Nag had been associated with retail premises with a shop front sign bearing the name 'Universal Sport Nutrition' and a Facebook page operating under the name 'Universal Sport Nutrition'. The Expert found that the Complainant had generated goodwill and reputation in its UNIVERSAL NUTRITION mark through many years of use which pre-dated the coming into existence of Mr Nag's 'Universal Sport Nutrition' business. Coupled with the finding that Mr Nag had actual or constructive knowledge of the Complainant's mark when universalsportnutrition.co.uk was registered, the Expert did not consider that Mr Nag had been legitimately connected with a mark which is identical or similar to universalsportnutrition.co.uk.

- 6.39 In view of the finding of the Expert in DRS13694 I do not consider that paragraph 4(a)(i)B of the Policy applies.
- 6.40 I therefore find that Domain Name, in the hands of the Respondent, is an Abusive Registration under paragraphs 1(i) and (ii) of the Policy.

## **7. Decision**

- 7.1 I find that the Complainant has Rights in a name or mark UNIVERSAL NUTRITION which is similar to the Domain Name and that the Domain Name, in the hands of the Respondent, is an Abusive Registration.
- 7.2 I direct that the Domain Name be transferred to the Complainant.

**Patricia Jones**

**11 April 2014**