

## **DISPUTE RESOLUTION SERVICE**

**D00022210**

### **Decision of Independent Expert**

**O2 Worldwide Limited**

and

**ZEIT, Inc.**

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

Complainant: O2 Worldwide Limited  
20 Air Street  
London  
W1B 5AN  
United Kingdom

Respondent: ZEIT, Inc.  
1900 Jefferson St  
Owner  
San Francisco  
CA  
94123  
United States

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

accounts-o2.co.uk (“the Domain Name”)

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

I can 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.

The procedural history is as follows:

08 January 2020 14:45 Dispute received  
09 January 2020 11:29 Complaint validated  
09 January 2020 11:40 Notification of complaint sent to parties  
28 January 2020 01:30 Response reminder sent  
31 January 2020 14:15 No Response Received  
31 January 2020 14:15 Notification of no response sent to parties  
11 February 2020 15:07 Expert decision payment received

### **4. Factual Background**

The Complainant is the intellectual property holding company of the well-known telecommunications group “O2”. Amongst other things, the group operates a mobile phone network as well as a large number of retail shops in the UK and elsewhere.

The Complainant owns many registered trade marks for “O2” including UK trade mark no. 2264516, filed on 19 March 2001, in classes 38, 39 and 42.

The Respondent registered the Domain Name on June 7, 2018. It has not been used for an active website.

### **5. Parties’ Contentions**

#### Complaint

The following is a summary of the Complaint:

The Domain Name is confusingly similar to the Complainant’s rights. Any relevant consumer would assume that the Domain Name is related to a website operated by the Complainant.

The Complainant’s brand, “O2”, is the dominant and distinctive element of the Domain Name.

The Domain Name is an abusive registration under paragraphs 3(a)(i)(A), 3(a)(i)(B), 3(a)(i)(C) and 3(a)(ii) of the DRS Policy.

There was no reason for the Respondent to register the Domain Name except to refer to the Complainant and to benefit in some way from its well-known trade mark.

The lack of a legitimate purpose for the Domain Name is supported by the fact that it has not been used for an active website.

It is possible that the Domain Name could be used for phishing purposes to gather account information from the Complainant's customers.

The Respondent set out to create a likelihood of confusion with the Complainant.

### Response

The Respondent did not file a Response.

## **6. Discussions and Findings**

To succeed, the Complainant has to prove in accordance with paragraph 2 of the DRS Policy on the balance of probabilities, first, that it has "Rights" (as defined in paragraph 1 of the DRS Policy) in respect of a name or mark identical or similar to the Domain Name and, second, that the Domain Name, in the hands of the Respondent, is an "Abusive Registration" (as defined in paragraph 1 of the DRS Policy).

### Complainant's Rights

The meaning of "Rights" is defined in the DRS Policy as follows:

*"Rights 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"*

The Complainant has established Rights in the name "O2" by virtue of its registered trade marks as well as unregistered rights arising from its extensive trading activities under that name.

The Domain Name is dominated by the Complainant's distinctive trade mark, differing only by addition of the descriptive term "accounts-".

Accordingly, I am satisfied that the Complainant has established rights in a name or mark which is similar to the Domain Name.

## Abusive Registration

Does the Domain Name constitute an Abusive Registration in the hands of the Respondent? Paragraph 1 of the DRS 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 took unfair advantage of or was unfairly detrimental to the Complainant's Rights.”*

The Domain Name dominated by the Complainant's distinctive and well-known trade mark. It may be that, as the Complainant suggests, the Domain Name was intended for phishing or similar illicit activity. In any event, the Respondent has not come forward to deny the Complainant's allegations, let alone put forward a legitimate reason for its selection of the Domain Name.

Accordingly, I have little difficulty in concluding that the Domain Name was registered in a manner which took unfair advantage of or was unfairly detrimental to the Complainant's Rights.

## **7. Decision**

I find that the Complainant has Rights in a mark which is similar to the Domain Name and that the Domain Name is, in the hands of the Respondent, an Abusive Registration. I therefore direct that the Domain Name < accounts-o2.co.uk > be transferred to the Complainant.

**Signed: Adam Taylor**

**Dated: 10 March 2020**