

ADMINISTRATIVE PANEL DECISION

Nomura International, Plc. v. Registration Private, Domains By Proxy /
Name Redacted

Case No. D2022-2511

1. The Parties

The Complainant is Nomura International, Plc., United Kingdom, represented by Potter Clarkson AB, Sweden.

The Respondent is Registration Private, Domains By Proxy, United States of America (“United States”) / Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <thenomura.com> (the “Domain Name”) is registered with Wild West Domains, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 11, 2022. On July 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 12, 2022, the Registrar transmitted by email to the Center its verification response registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on July 13, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on July 15, 2022.

¹ As discussed in the decision below, in light of potential identity theft, the Panel has redacted the Respondent’s name from the decision. However, the Panel has attached as Annex 1 to this decision an instruction to the corresponding Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the corresponding Registrar as part of the order in this proceeding, and has indicated that Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on July 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 7, 2022. After July 18, 2022, in reply to the Center’s notification, several emails were sent by a person with the name and details of the Respondent, briefly summarized stating that he has been hacked, that the Domain Name was not registered by him, and that he was the victim of identity fraud. Ultimately, on August 4, 2022, Complainant, understanding the position of the person with the name and details of the Respondent, requested for a decision to be rendered.

Accordingly, on August 9, 2022 the Center notified that the due date for a Response was August 7, 2022 and that it would proceed to Panel appointment.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on August 16, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is an English public limited company and is headquartered in London. The Complainant is part of the financial services group the “Nomura Group” whose history dates back to 1925 when Nomura was formally founded in Osaka, Japan. The Complainant, as part of the Nomura Group, offers financial services relating to retail, wholesale, and investment management. As such, the Complainant is active in over 30 countries worldwide and currently employs 26,000 professionals.

The Complainant is the owner of several trademark registrations, including, but not limited to the European Union Trade Mark NOMURA (word mark), with registration no. 002615136 and registration date of August 10, 2005, for services in classes 35 and 36, and the United Kingdom trademark NOMURA (word mark), with registration no. UK00002169140 and registration date of June 4, 1999, for services in class 36. The aforementioned trademark registrations will hereinafter also jointly be referred to in singular as the “Trademark”.

The Domain Name was registered on May 10, 2022, and does not resolve to any active website. However, the Complainant has provided evidence of email communications being sent from the Domain Name.

5. Parties’ Contentions

A. Complainant

The Complainant contends the following:

The Domain Name is identical or at least confusingly similar to the Trademark. More specifically, the Domain Name consists of the Trademark in its entirety to which the registrant solely added the article “the”. Therefore, the Trademark is the dominant element of the Domain Name and is also recognizable as such.

The Registrant has no rights or legitimate interest in regard to the Domain Name. The Complainant has not given its permission or any other authorization for the Registrant to use the Trademark. In addition to this, the Respondent is not using the Domain Name in connection with a *bona fide* offering of goods or services. To the contrary, the Respondent uses the Domain Name to capitalize on the reputation and goodwill of the

Trademark, as it purposefully commits acts of fraud by sending emails from an email account using the Domain Name.

Furthermore, the Domain Name has been registered and used in bad faith. Three days after the Domain Name was registered Complainant was notified by the Security Operations Center of a suspicious domain name which was used to send phishing emails. The phishing emails were all sent from email addresses including the Domain Name, and impersonating the Complainant. Such use clearly shows that the Domain Name was registered in bad faith. Moreover, the fraudulent activities that heavily rely on sensitive information and the deception of Internet users cannot lead to any other conclusion than that the Domain Name is used in bad faith.

B. Respondent

The Respondent did not substantively reply to the Complainant's contentions. However, the person whose name and details were used as registrant details for the Domain Name informed the Center that he was unaware of the fact that the Domain Name was registered and it was certainly not him having registered the Domain Name and that after being notified he has tried to contract certain parties involved to resolve the issue.

For obvious practical reasons the Panel will discuss the case by using the term the "Respondent" in reference to the actual registrant of the Domain Name. However, by doing so the Panel is not commenting on the question of whether or not the person whose name was used to register the Domain Name is in fact the actual registrant of the Domain Name.

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements:

- (i) the Domain Name is identical or confusingly similar to the trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has sufficiently proven to have rights in the Trademark.

The Domain Name is comprised of the NOMURA Trademark in its entirety, only preceded by the article "the".

As set forth in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8, the addition of other terms and/or elements would not prevent a finding that a domain name is confusingly similar to the relevant trademark for purposes of the first element.

The Trademark is clearly recognizable in the Domain Name and the addition of the article "the" does not prevent a finding of confusing similarity between the Domain Name and the Complainant's Trademark.

Accordingly, the Panel finds that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

In discussing the second and third element, the Panel generally takes into consideration that the person identified in the registration details of the Domain Name shortly summarized that he was the victim of identity fraud and that he has not consented to the registration in his name and with his details.

The Complainant in its Complaint has established a *prima facie* case that the Respondent has no rights or legitimate interest in the Domain Name.

The Panel could not find any evidence by referring to the types of evidence set forth in paragraph 4(c) of the Policy from which the Panel may conclude that the Respondent has rights or legitimate interests in the Domain Name, such as:

- (i) use or preparation to use the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services prior to notice of the dispute; or
- (ii) being commonly known by the Domain Name (as an individual, business or other organization) even if the Respondent has not required any trademark or service mark rights; or
- (iii) making legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The *prima facie* case presented by the Complainant is enough to shift the burden of production to the Respondent in order to demonstrate it has rights or legitimate interests in the Domain Name. However, the Respondent has not presented any evidence of any rights or legitimate interests it may have in the Domain Name, and the Panel is unable to establish any such rights or legitimate interests on the basis of the evidence in front of it.

The Complainant has asserted that the Respondent is not affiliated with the Complainant in any way. More specifically, the Respondent has not been licensed or otherwise permitted by the Complainant to use the Trademark.

The Respondent has also not put forward any evidence that would support the claim that the Respondent has used or made preparations to use the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

To the contrary, the Complainant received several indications that the Domain Name was being used to send phishing emails to third parties and has provided evidence. By doing so, the Respondent is purposely committing acts of fraud. In accordance with section 2.13.1 of the [WIPO Overview 3.0](#) the use of a domain name for illegitimate activity, such as phishing or the impersonation of a complainant, can never confer rights or legitimate interests on a respondent.

Hence, the Respondent's use cannot be considered a legitimate noncommercial or fair use of the Domain Name either.

The Panel, therefore, finds that the second element has been sufficiently satisfied.

C. Registered and Used in Bad Faith

The Panel finds that the Respondent has registered and used the Domain Name in bad faith and refers to its considerations under section 6.B. above.

In light of the evidence filed by the Complainant, the Panel finds that the NOMURA Trademark and the Complainant's activities are well known. The Complainant is the proprietor of numerous trademarks which were used and registered many years before the Domain Name was registered. Furthermore, the Nomura

Group provides financial services to customers in over 30 countries and regions. In addition to this, the holding company of the Nomura Group is listed on the New York Stock Exchange. Accordingly, in the Panel's view, apart from the fact that the Respondent clearly had the Complainant in mind when sending out the phishing emails, the Respondent must have been aware of the existence of the Complainant's activities and rights at the time the Respondent registered the Domain Name.

In this regard, the Panel considers it to be relevant that such phishing emails were sent out, three days after the Domain Name was registered. The emails requested the recipients of that email for personal details regarding their bank account, whereas funds would be transferred to their "new" bank accounts. The Respondent used the Complainant's brand and logo making it seem like the Complainant's personnel had sent the email.

As a result, the Respondent has registered and is using the Domain Name to obtain sensitive information from the recipients of the email and/or deceive them into transferring substantive amounts of money to third parties not associated with Complainant. Such use can potentially cause significant damage to not only Respondent's victims but also the reputability of the Complainant. Whereas phishing is considered a *per se* illegitimate activity such behavior is, in accordance with section 3.1.4 of the [WIPO Overview 3.0](#), manifestly considered evidence of bad faith.

In the light of the above circumstances, the Panel is satisfied that the third element of the Policy is met and that the Domain Name was registered and is being used in bad faith.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name <thenomura.com> be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: August 30, 2022