Panel Decision for dispute CAC-ADREU-006339

Case number	CAC-ADREU-006339
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Domain names	natwesttbnkplc.eu

Case administrator

Lada Válková (Case admin)

Complainant

Organization	National Westminster Bank plc

Respondent

Name	Gladys Oliyns

INSERT INFORMATION ABOUT OTHER LEGAL PROCEEDINGS THE PANEL IS AWARE OF WHICH ARE PENDING OR DECIDED AND WHICH RELATE TO THE DISPUTED DOMAIN NAME

None of which this panel is aware of.

FACTUAL BACKGROUND

The Complainant is an internationally recognized bank, incorporated in London under company No. 929027. It resulted as a merger of National Provincial Bank (est. 1833) and Westminster Bank (est. 1836). The merger took place in 1968. Both banks trace their history back to 1650s. The Complainant is now part of the Royal Bank of Scotland Group.

The Complainant has 7.5 million personal customers and 850,000 small business accounts. It offers financial services under the brand name »NATWEST«. The Complainant has registered trademarks »NATWEST« in 47 countries of the world, including 15 EU countries. It also has several more registred trademarks containing the name »NATWEST«.

The Complainant operates websites www.natwest.com, www.natwest.co.uk, and others.

The Respondent registered the disputed domain name »natwesttbnkplc.eu« (hereinafter the »Domain Name«) on February 24, 2012.

The Respondent used to operate the website »www.natwesttbnkplc.eu«, using logo of the Complainant, and graphic image of the website of the Complainant.

The Complainant tried to settle the dispute in 2012 by sending two letters to the Respondent, demanding from him to transfer the Domain Name to the Complainant, and to refrain from using trademarks of the Complainant (letters from April 11, 2012, and April 18, 2012).

The Respondent did not reply to the letters of the Complainant.

In this proceeding the Respondent has not filed any response.

There is no indication from the evidence that the Respondent has any right or legitimate interest to the Domain Name.

At the time of deciding this case, the website with the Domain Name is not active.

A. COMPLAINANT

The Complainant contends that it has spent significant amount of money promoting and developing its trade mark »NATWEST«, which is

registered in 47 countries worldwide. Under the Paris Convention for protection of Industrial Property, and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), it has the right to prevent any use of well known trademark. According to the Article 21(1) of the Commission Regulation 874/2004, the disputed Domain Name should be transferred to the Complainant.

The Complainant contends, that the Domain Name is confusingly similar to the trademark of the Complainant. The Domain Name combines trademark of the Complainant »NATWEST«, with suffixes »t«, »bnk«, and »plc«. Combination of the trademark with generic names does not prevent domain name to be confusingly similar with the registered trademark.

It explains that »bnk« is generally understood as abbreviation for »bank« or »banking«, and »plc« refers to public limited liability company. Therefore, these sufixes are generic terms and don't distinguish the Domain Name from the »NATWEST« trademark. Top level domain ».eu« should also be ignored when comparing Complainant's trademark with the Domain Name.

The Complainant further contends, that the Respondent has no registered trademark or trade name corresponding to the Domain Name, and is not commonly known by the Domain Name. Therefore, the Respondent has not established rights or legitimate interest in the Domain Name.

The Respondent used »www.natwesttbnkplc.eu« website, using Complainant's logo, and imitating Complainant's website, with the aim to »phish« for personal and financial information of Complainant's customers in order to defraud them. This constitutes use of domain name in bad faith, and it is criminal activity.

Bad faith is also demonstrated by the fact that the Respondent has not replied to the two letters which the Complainant sent to him requiring transfer of the the Domain Name to the Complainant, and refrain from using its trademark »NATWEST«.

The complainant invokes caselaw of WIPO, NAF and ADR (e.g. ADR cases 2235 (PALMERSCOCOABUTTER), 3292 (EGOOGLE, E-GOOGLE), and requires transfer of the Domain Name to the Complainant.

B. RESPONDENT

The Respondent had not responded to the Complaint.

DISCUSSION AND FINDINGS

Under Article 21 (1) of Commission Regulation (EC) No 874/2004 (hereinfter: Commission Regulation) in order to succeed under this dispute resolution procedure a Complainant must show that the Domain Name is:
(i) identical or confusingly similar to a name in respect of which a right is recognised or established by national and/or Community law and:
(ii) the Domain Name has been registered by its holder without rights or legitimate interest in the name; or
(iii) has been registered or is being used in bad faith.

The rights mentioned in Article 10 (1) of the Commission Regulation shall be understood to include national and community trademarks and, as far as they are protected under national law in the Member State where they are held: trade names, business identifiers or company names.

Identical or confusingly similar name:

The Complainant is an owner of trademark »NATWEST« and trademarks deriving from »NATWEST« in 47 countries. The Domain Name does not completely correspond to the trademark. The Domain name contains the trademark of the Complainant and suffixes »bnk« and »plc«. »Bnk« and »plc« are generic terms. »bnk« is associated with banks and banking, and »plc« describes public limited companies. The suffixes »bnk« and »plc« therefore don't constitute any signicifant differentiating part of the Domain Name.

This Arbitration Court has found on several occasions that the use of complainant's trademark combined with generic terms does not distinguish the disputed domain name from the one of the complainant (for example ADR case 6221 »MICROSOFT-SERVERS«, »MICROSOFT-CLOUD-COMPUTING«; ADR case 6045 »PORSCHE-MAGAZIN«, »PORSCHEMAGAZIN«; ADR case 6071 »BARCLAYCORPORATEFUNDING«, ADR case 6063 »MICROSOFTSERVICE«; and ADR case 3292 »EGOOGLE«, »E-GOOGLE).

There is an aditional letter »t« in the middle of Domain Name, which is, as a letter, also »generic« and does not constitute any sign which would significantly differentiate the Domain Name from the the trademark of the Complainant. In the Domain Name is composed of 13

letters, and double letter »t« instead of a single »t« can also be overlooked easily. Therefore the Panel is of the view that the Domain Name is confusingly similar to the trademark of the Complainant.

No rights or legitimate interest of the Respondent:

Since the Respondent did not reply to the allegations of the Complainant, the Panel can only consider the evidence submitted by the Complainant. The evidence does not show any rights or legitimate interest of the Respondent regarding the Domain Name. The Respondent is not in banking business, doesn't own a public limited company, and has no right to the Domain Name.

These findings are satisfactory to decide the case in favour of the Complainant.

Bad faith:

In addition to the findings above, the Domain Name was used in bad faith. The Respondent did not only use the Domain Name, but also the registered trademark of the Complainant »NATWEST«. The Respondent's webpage imitated the webpage of the Complainant, despite the fact that Respondent does not operate in banking business. Therefore, it is obvious that the Respondent tried to mislead visitors of the webpage.

The Panel found that the Complainant, being a company from the United Kingdom is eligible to hold the Domain Name.

Therefore requirements from Article 21 of the Commission Regulation are met to transfer the Domain Name to the Complainant.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that the domain name NATWESTTBNKPLC.EU be transferred to the Complainant

PANELISTS

Name	**Blaz Mrva**

DATE OF PANEL DECISION 2013-04-28

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: NATWESTTBNKPLC.EU

II. Country of the Complainant: United Kingdom; country of the Respondent: United Kingdom

III. Date of registration of the domain name: 24 February 2012

IV. Rights relied on by the Complainant (Art. 21 (1) Regulation (EC) No 874/2004) on which the Panel based its decision:
1. word trademark NATWEST registered in United Kingdom, reg. No. 1021601, registered on 3 December 1973 in respect of goods and services in class 16
2. word trademark NATWEST registered in France, reg. No. 1205214, registered on 28 May 1982 in respect of goods and services in class 35
3. 85 more trademarks including the word NATWEST registered in EU and other countries

V. Response submitted: No

VI. Domain name is confusingly similar to the protected rights of the Complainant

VII. Rights or legitimate interests of the Respondent (Art. 21 (2) Regulation (EC) No 874/2004):
1. No
2. Why: Not even claimed

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
1. Yes

2. Why: Creation of a false impression of a connection with the Complainant when none exists.

IX. Other substantial facts the Panel considers relevant: None.

X. Dispute Result: Transfer of the disputed domain name.

XI. Procedural factors the Panel considers relevant: None.

XII. Is Complainant eligible? Yes