Panel Decision for dispute CAC-ADREU-006629

Case number	CAC-ADREU-006629
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Domain names	natwestplc.eu

Case administrator

Lada Válková (Case admin)

Complainant

Organization	National Westminster Bank Plc.

Respondent

Name	Andrew Culloo

FACTUAL BACKGROUND

The Complainant, a well known bank trading under the name National Westminster bank since 1970, is a public limited company incorporated in London which trades worldwide and is the proprietor of the NATWEST trade mark with a Community Trade Mark no 4319083 registered for, inter alia, financial services in Class 36. It operates websites at natwest.com and natwest.co.uk. NATWEST is a well known mark.

The Respondent registered the disputed domain name ("the Domain Name") on September 15, 2013. The Respondent has used the name to pass itself off as the Complainant in a phishing scam using a fraudulent web site identical to the Complainant's to obtain financial information from customers for the purpose of fraud. The website is currently not active, but is still in the hands of the Respondent.

A. COMPLAINANT

The Complainant, a well known bank trading under the name National Westminster bank since 1970, is a public limited company incorporated in London which trades worldwide and is the proprietor of the NATWEST trade mark with a Community Trade Mark no 4319083 registered for, inter alia, financial services in Class 36. It has 7.5 million personal customers and 850,000 small business accounts. It operates websites at natwest.com and natwest.co.uk. NATWEST is a well known mark, its fame having been confirmed in numerous UDRP decisions before WIPO and NAF.

The dominant part of the Domain Name natwestplc.eu comprises the term natwest which is identical to the Complainant's registered trade mark NATWEST and combines it with the suffix "PLC" which is generally understood as meaning public limited company. The fact that the Complainant is a public limited company simply serves to strengthen the impression that the Domain Name belongs to or is affiliated with the Complainant. The top level domain ".eu" is ignored for the purposes of this comparison under the Policy. Anyone who sees the Domain Name is bound to mistake it for a name related to the Complainant and it is confusingly similar to the Complainant's NATWEST trade mark.

The Respondent registered the Domain Name on September 15, 2013. It does not appear to have any registered rights or trade usage associating it with the name Natwest. It does not appear to be commonly known by the name. In fact, the

Respondent has used the name to pass itself off as the Complainant in a phishing scam using a fraudulent web site identical to the Complainant's to obtain financial information from customers for the purpose of fraud. This is not a bona fide offering of goods and service not a legitimate fair or non commercial usage. The Respondent has no rights or legitimate interests in the Domain Name.

By using the Complainant's registered trade mark NATWEST to deceive the Complainant's customers and manipulate them into revealing sensitive financial information the Respondent has used the Domain Name in a manner constituting bad faith registration and use under the Policy. The website is currently not active but is still in the hands of the Respondent. Even passive holding would be bad faith usage as any realistic use of the Domain Name would be passing off or trade mark infringement. It is obvious from the fraudulent use that the Respondent was aware of the Complainant when it registered the Domain Name. By using the Domain Name for a fraudulent site the Respondent is committing a criminal offence and misleadingly diverting customers for his own commercial gain. The Respondent has registered and is using the Domain Name in bad faith.

B. RESPONDENT

The Respondent did not respond and is in default.

DISCUSSION AND FINDINGS

Under Article 21 (1) of Commission Regulation (EC) No 874/2004 ("the Regulation") in order to succeed under this dispute resolution procedure a Complainant must show that the Domain Name is identical or confusingly similar to a name in respect of which a right is recognised or established by national and/or Community law and the Domain Name:

(a) has been registered by its holder without rights or legitimate interest in the name; or

(b) has been registered or is being used in bad faith.

The Complainant is the proprietor of the NATWEST trade mark and owns a Community Trade Mark registration no 4319083 registered for, inter alia, financial services in Class 36.

The dominant part of the Domain Name comprises the term natwest which is identical to the Complainant's registered trade mark NATWEST and combines it with the suffix "PLC" which is generally understood as meaning public limited company. The Complainant is a public limited company and the Panel agrees with the Complainant that the use of this generic term simply serves to strengthen the impression that the Domain Name belongs to or is affiliated with the Complainant and is not sufficient to distinguish the Domain Name from the Complainant's mark. The top level domain ".eu" is ignored for the purposes of this comparison under the Policy. The Domain Name is confusingly similar to the Complainant's NATWEST trade mark within Article 21 (1) of the Regulation.

The Respondent registered the Domain Name on September 15, 2013. It does not appear to have any registered rights or trade usage associating it with the name Natwest. It does not appear to be commonly known by the name. The evidence shows that the Respondent has used the Domain Name to pass itself off as the Complainant in a phishing scam using a fraudulent web site identical to the Complainant's to obtain financial information from customers for the purpose of fraud. The Panel agrees with the Complainant that this is not a bona fide offering of goods and service, nor a legitimate fair or non commercial usage without intent to mislead customers or harm the reputation of the Complainant's name. The Respondent has no rights or legitimate interests in the Domain Name within the meaning of Article 21 (2) of the Regulation.

The Panel agrees with the Complainant that it is obvious from the fraudulent use that the Respondent was aware of the Complainant and its rights when it registered the Domain Name. By using the Domain Name for a fraudulent site the Respondent is confusing customers as to the origin of its web site and the services offered thereon for his own commercial gain. As such the Respondent has registered and is using the Domain Name in bad faith and falls within the ambit of Article 21 (3) (d) of the Regulation.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that

the domain name NATWESTPLC be transferred to the Complainant

PANELISTS

Name	**Dawn Osborne**

DATE OF PANEL DECISION 2014-03-05

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: natwestplc.eu

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

III. Date of registration of the domain name: 15 September 2013

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 registered as a CTM, reg. No. 4319083, for the term NATWEST, filed on 31 March 2005, registered on 17 may 2006 in respect of goods and services in classes 9, 16, 35, 36, 38, 41 and 42.

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 bona fide use for goods and services, not legitimate non commercial or fair use, fraudulent commercial use

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
1. Yes
2. Why: Fraudulent commercial use of the Domain Name to confuse Internet users between the Domain Name and the website of the Respondent and the services offered thereon and the Complainant's NATWEST trade mark for commercial gain

IX. Other substantial facts the Panel considers relevant: Domain name has been used for fraudulent criminal activity, namely fraud.

X. Dispute Result: Transfer of the disputed domain name

XI. Procedural factors the Panel considers relevant:

XII. [If transfer to Complainant] Is Complainant eligible? Yes