

## **ADMINISTRATIVE PANEL DECISION**

Nomura International, Plc. v. Norman Muranna, Norman Muralley  
Case No. D2023-4949

### **1. The Parties**

The Complainant is Nomura International Plc., United Kingdom (the “UK”), represented by Potter Clarkson AB, Sweden.

The Respondents are Norman Muranna, Spain, and Norman Muralley, Spain.

### **2. The Domain Names and Registrar**

The disputed domain names <nomurainternationalplc.com> and <nomurapl.com> are registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 28, 2023. On November 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 29, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names, which differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint.

The Center sent an email communication to the Complainant on November 29, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on December 1, 2023.

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 Respondents of the Complaint, and the proceedings commenced on December 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 24, 2023. The Respondents did not submit any

response. Accordingly, the Center notified the Respondents' default on January 2, 2023.

The Center appointed Marilena Comanescu as the sole panelist in this matter on January 4, 2024. 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, Nomura International Plc., is part of the international Nomura financial services group. The Nomura Group was formally founded in 1925 in Osaka, Japan and, since that date, it has grown to have a presence in over 30 countries, employing over 27,000 employees globally, and having physical presence in Europe for 25 years, including in Spain, where the Respondent is apparently located.

The Complainant, and its group, offers a range of financial services across a large number of jurisdictions including asset management, retail banking and investment banking.

The Complainant owns worldwide trademark registrations for the mark NOMURA, such as the following:

- the UK trademark registration number UK00002169140 for the word NOMURA, filed on June 11, 1998, and registered on June 4, 1999, covering services in International class 36; and
- the European Union trademark registration number 002615136 for the word NOMURA, filed on March 8, 2002, and registered on August 10, 2005, covering services in International classes 35 and 36.

The companies within the Nomura Group are licensed to use the trademarks of other companies within the Nomura Group.

The Complainant, directly or through its related companies, holds various domain names containing the mark NOMURA, such as <nomura.com> registered in 1994, and <nomuraholdings.com> registered in 2001.

The disputed domain name <nomurainternationalplc.com> was registered on July 28, 2023, and the disputed domain name <nomurapl.com> was registered on September 6, 2023.

At the time of filing the Complaint, both disputed domain names resolved to a landing webpage displaying a red screen.

According to Annex 6 to Complaint, the disputed domain name <nomurapl.com> was used to send emails aimed to impersonate the Complainant, and its related companies, offering specific investment products. Such emails include, *inter alia*, a link to the Complainant's official website <nomura.com>, the Complainant's registered company name and headquarters, as well as the Complainant's red logo.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to its internationally well-known trademark NOMURA; that the Respondent has no rights or legitimate interests in the disputed domain names; and that the Respondent registered and is using the disputed domain names in bad faith in order to create and use email accounts to contact members of the public and to offer them

unofficial and fraudulent financial products which are designed to impersonate products offered by Nomura. Such use has the potential to cause significant damage to both victims, such as substantial financial damage, as well as significant reputational damages to the Complainant.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

### **A. Consolidation: Multiple Respondents**

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that the disputed domain names (i) display the same landing page with a red screen (which is not a registrar's standard landing page or an error page); (ii) have registrants both based in mainland Spain, with identical first names, i. e. Norman, and similar surnames, with identical first five letters, namely they both start with "Muran"; (iii) are both registered with the same Registrar; (iv) were created in a similar manner, reproducing the Complainant's trademark NOMURA followed by additional terms, "international plc", respectively "plc" and ultimately representing company names of the Complainant and its affiliate; and (v) were registered within a short timeframe, of less than two months from each other.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

### **B. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing

(or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain names. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms here, "international plc", respectively "plc", may bear on assessment of the second and third elements, the Panel finds the addition of such terms do not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

### **C. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

According to the evidence provided in the Complaint, the Respondent has used the disputed domain name <nomurapl.com> to send emails offering unauthorized financial products, inserting in such emails the Complainant's company name, registered address, and logo. Panels have held that the use of a domain name for illegal activity (e.g., impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Furthermore, the composition of the disputed domain names carries a high risk of implied affiliation, being formed of the Complainant's mark with generic terms, and ultimately representing the reproductions of the Complainant's company name, respectively of its affiliate, and suggests an affiliation with the trademark owner. UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

#### **D. Registered and Used in Bad Faith**

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the disputed domain names were registered in bad faith, with knowledge of the Complainant and its trademark particularly since they reproduce the Complainant's mark (registered since at least 1999), company names and domain names. Furthermore, the use of the disputed domain name <nomurapl.com> enforces such finding.

According to the evidence provided in the Complaint and unrefuted by the Respondent, the disputed domain name <nomurapl.com> was used to send email offerings of unauthorized financial products from an email address associated with this domain name, using as well the Complainant's official company name, address, website and logo. Panels have held that the use of a domain name for illegal activity (e.g., impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

At the time of filing the Complaint, the disputed domain name <nomurainternationalpl.com> directs towards a parked page with red screen and no content.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name <nomurainternationalpl.com> does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the reputation of the Complainant's trademark; the composition of the disputed domain name which is highly similar to the Complainant's trademark, domain names and company name; the use of the red color on the landing page, similar to the Complainant's logo color; the Respondent's failure to respond in the present proceedings; the use of inaccurate or incomplete contact information in the Whols; the implausibility of any good faith use to which the disputed domain name may be put, and, finds that, in the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

#### **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 disputed domain names, <nomurainternationalpl.com> and <nomurapl.com>, be transferred to the Complainant.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: January 16, 2024