



NATIONAL ARBITRATION FORUM

DECISION

The Royal Bank of Scotland Group plc and National Westminster Bank plc v. Nikita Soloviov
Claim Number: FA0609000787983

PARTIES

Complainants are **The Royal Bank of Scotland Group plc** and **National Westminster Bank plc** (collectively, "Complainant"), represented by **James A. Thomas**, of **Parker, Poe, Adams & Bernstein L.L.P.**, Post Office Box 389, Raleigh, NC 27602. Respondent is **Nikita Soloviov** ("Respondent"), Pilotov Str., 13, St. Petersburg 190000, Russia.

REGISTRAR AND DISPUTED DOMAIN NAME

The domain name at issue is <**natwest-banks.com**>, registered with **Topsystem Llc**.

PANEL

The undersigned certifies that he or she has acted independently and impartially and to the best of his or her knowledge has no known conflict in serving as Panelist in this proceeding.

Houston Putnam Lowry, Chartered Arbitrator, as Panelist.

PROCEDURAL HISTORY

Complainant submitted a Complaint to the National Arbitration Forum electronically on September 1, 2006; the National Arbitration Forum received a hard copy of the Complaint on September 5, 2006.

On September 19, 2006, Topsystem Llc confirmed by e-mail to the National Arbitration Forum that the <**natwest-banks.com**> domain name is registered with Topsystem Llc and that Respondent is the current registrant of the name. Topsystem Llc has verified that Respondent is bound by the Topsystem Llc registration agreement and has thereby agreed to resolve domain-name disputes brought by third parties in accordance with ICANN's Uniform Domain Name Dispute Resolution Policy (the "Policy").

On September 26, 2006, a Notification of Complaint and Commencement of Administrative Proceeding (the "Commencement Notification"), setting a deadline of October 16, 2006 by which Respondent could file a response to the Complaint, was transmitted to Respondent via e-mail, post and fax, to all entities and persons listed on Respondent's registration as technical, administrative and billing contacts, and to postmaster@natwest-banks.com by e-mail.

Having received no response from Respondent, the National Arbitration Forum transmitted to the parties a Notification of Respondent Default.

On October 20, 2006, pursuant to Complainant's request to have the dispute decided by a single-member Panel, the National Arbitration Forum appointed Houston Putnam Lowry, Chartered Arbitrator, as Panelist.

Having reviewed the communications records, the Administrative Panel (the "Panel") finds that the National Arbitration Forum has discharged its responsibility under Paragraph 2(a) of the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") "to employ reasonably available means calculated to achieve actual notice to Respondent." Therefore, the Panel may issue its decision based on the documents submitted and in accordance with the ICANN Policy, ICANN Rules, the National Arbitration Forum's Supplemental Rules and any rules and principles of law that the Panel deems applicable, without the benefit of any response from Respondent.

RELIEF SOUGHT

Complainant requests that the domain name be transferred from Respondent to Complainant.

PARTIES' CONTENTIONS

A. Complainant makes the following assertions:

The trademark on which this Complaint is based is "NATWEST." Complainant The Royal Bank of Scotland Group plc ("RBS") is one of the world's leading financial services providers and one of the oldest banks in the United Kingdom ("UK"). In addition to its strong UK presence, RBS has offices elsewhere in Europe, and in the United States and Asia. Complainant RBS owns numerous subsidiaries, including Complainant National Westminster Bank plc ("NatWest Bank").

Complainant NatWest Bank, founded in 1968, holds trademark registrations for its "NATWEST" mark in jurisdictions throughout the world. Complainant NatWest Bank is a leading financial institution based in the United Kingdom that offers a full range of personal and business banking and financial services, including credit cards, to more than 7.5 million personal customers and 850,000 small business accounts.

Complainant NatWest Bank owns nine "NATWEST" trademark registrations in the United Kingdom Patent Office, the first of which was filed in 1973. Complainant also owns the registration of the "NATWEST" mark with the United States Patent and Trademark Office ("USPTO"). Complainant also has an application pending for its "NATWEST" mark in the Russian Federation Trademark Office. Complainant uses the mark "NATWEST" in promoting and providing a wide range of financial products and services, including banking services, credit cards, financial planning, and insurance services, throughout the United Kingdom and abroad. In conjunction with providing these services, Complainant owns and uses, through its owner RBS, the domain names <natwest-bank.com>, <natwest-banks.net>, <natwest-bank.net>, and <natwest.com> all of which link to NatWest Bank's official website. Complainant owns hundreds of other domain names incorporating its "NATWEST" mark as well.

This Complaint is based on the following factual and legal grounds:

a. **The domain name is identical or confusingly similar to a trademark in which Complainant has rights.**

The domain name, which fully incorporates Complainants' mark with the addition of a term corresponding to Complainants' business, is confusingly similar to Complainants' mark. "A general rule under [ICANN] Policy ¶4(a)(i) is that a domain name is confusingly similar to a third-party mark where the domain name fully incorporates the mark and simply adds additional words that correspond to the goods or services offered by the third party under the mark." *Sony Kabushiki Kaisha v. 0-0 Adult Video Corp.*, FA 475214 (Nat. Arb. Forum June 27, 2005). In this case, Respondent's domain name <natwest-banks.com> fully incorporates Complainant NatWest Bank's mark "NATWEST" and adds a term ("banks") that corresponds to and describes Complainant's business. The addition of a descriptive term such as "banks" does not distinguish the domain name <natwest-banks.com> from Complainants' "NATWEST" mark because "banks" is a generic term describing the business of Complainant NatWest. See *TransOcean Bank & Trust, Ltd. v. Ojaruwedia*, FA158163 (Nat. Arb. Forum July 7, 2003) (holding that <transoceanbank.com> was confusingly similar to the mark "TRANSOCEAN"); *Wells Fargo & Co. v. Bogucki*, FA147305 (Nat. Arb. Forum Apr. 16, 2003) ("Respondent's addition of the word "bank" to WELLSFARGO likewise fails to create a domain name that is distinct from the Complainant's mark.")

Additionally, Complainants own and use the domain names <natwest-banks.net>, <natwest-bank.com>, and <natwest-bank.net> to link to the official NatWest Bank website. The fact that Respondent's domain name <natwest-banks.com> is virtually identical to Complainants' domain names further increases the likelihood that consumers will be confused as to the sponsorship of the disputed domain name.

b. **Respondent has no rights or legitimate interests in respect of the domain name that is the subject of this Complaint.**

Respondent has no rights to or legitimate interest in the domain name <natwest-banks.com>. Complainants have not licensed or otherwise authorized Respondent to use the "NATWEST" mark, or any variation thereof. Respondent registered <natwest-banks.com> on October 15, 2005.¹ This was more than 32 years after Complainant Natwest Bank first registered the mark "NATWEST" in 1973.

Under ICANN Policy, when a complainant demonstrates rights in a domain name, the burden shifts to the respondent to prove that he has rights in the name. ICANN Policy

¹ Complainants originally filed this complaint against Eurobox Ltd., which was listed as the registrant. However, it now appears that Eurobox Ltd. was simply an identity shield service used to hide the identity of the real registrant. After Complainant filed its original complaint, the identity of the real registrant was revealed by Eurobox and thus the complaint was amended.

¶4(c)(i)–(iii) provides three situations under which a respondent would have rights in a domain name:

- (i) before any notice to you of the dispute, your use of, or demonstrable 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; or**
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or**
- (iii) you are making a 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.**

Respondent cannot establish any of these situations and, therefore, cannot demonstrate any rights or legitimate interests in the domain name.

Respondent has never used the disputed domain name, or the name “Natwest” or any variation thereof, in connection with a *bona fide* offering of goods or services, nor has it made a legitimate non-commercial or fair use of the domain name. Instead, at the time the original complaint was filed, Respondent was using <natwest-banks.com> to operate a holding website which made no reference to “Natwest” but instead displayed the words “This domain name was recently registered/purchased” and allowed users to contact the domain name owner. The website also displayed several commercial links. **Use of an infringing domain name to link to a parking website is not a bona fide offering of goods or services or a legitimate noncommercial or fair use.** *Morgan Stanley v. Blog Network Int’l*, FA 564204 (Nat. Arb. Forum Oct. 28, 2005) (finding that the respondent failed to demonstrate rights in the domain name <morganstanleyblog.com> where the domain name resolved to a “parking page” which allowed internet users to purchase domain names and provided various other commercial links). Further, the domain name now resolves to a website stating that “the support of the domain name has been terminated for non-payment.” This constitutes additional evidence that Respondent is neither making, nor has any intention of making, a bona fide offering of goods or services or a legitimate noncommercial or fair use of the domain name.

Such use by Respondent of the domain name, which Respondent registered more than 10 months ago, could also be considered “passive holding” of the domain name. The Respondent’s passive holding of this domain name – which fully incorporates Complainant’s NATWEST mark and which can only sensibly be understood to refer to Complainant NatWest Bank – has no legitimate purpose, is not a use in connection with a bona fide offering of goods or services, and is not a noncommercial or fair use under ICANN Policy ¶4(c). *See Dollar Financial Group, Inc. v. Mobile Internet Technologies, LLC*, FA 363953 (Nat. Arb. Forum Dec. 28, 2004) (“Respondent has not made any use of the domain name since registering it in May 2004 [seven months prior to decision of UDRP]. Passive holding is not considered a use in connection with a bona fide offering

of goods or services pursuant to Policy ¶4(c)(i). . . .”); *see also Vestel Elektronik Sanayi ve Ticaret AS v. Kahveci*, D2000-1244 (WIPO Nov. 11, 2000) (“merely registering the domain name is not sufficient to establish rights or legitimate interests for purposes of paragraph 4(a)(ii) of the Policy.”); *Melbourne IT Ltd. v. Stafford*, D2000-1167 (WIPO Oct. 16, 2000) (finding no rights or legitimate interests in the domain name where there is no proof that Respondent made preparations to use the domain name in connection with a bona fide offering of goods and services before notice of the domain name dispute, the domain name did not resolve to a website, and Respondent is not commonly known by the domain name).

Further, given that Complainant has registered trademark rights to the distinctive, well-known “NATWEST” mark, *any* actual use by Respondent of the <natwest-banks.com> domain name would infringe on Complainant’s trademark rights. As a matter of law, no use by Respondent of this domain name could be legitimate or in connection with a bona fide offering of goods or services. *See Broadcom Corp. v. Ayers Int’l Group, Inc.*, FA 112562 (Nat. Arb. Forum July 24, 2002); *see also Deutsche Bank Aktiengesellschaft v New York TV Tickets Inc.*, WIPO Case No. D2001-1314 (February 12, 2002) (“given the notoriety of the Complainant's Deutsche Bank Mark, any use which the Respondent would make of any domain name, as here, that incorporated the Complainant's Deutsche Bank Mark, or one confusingly similar thereto, would likely violate the exclusive trademark rights which the Complainant has long held in its mark”). Accordingly, Respondent will not be able to use this domain name for a legitimate noncommercial or fair use or for a bona fide offering of goods or services.

Further, Respondent has never been commonly known by the disputed domain name or by the name “Natwest.” Respondent does not now use and has never used the name in connection with a legitimate business. Respondent originally registered the domain name under the name Eurobox Ltd. to hide her identity. Respondent has now registered the domain name under her own name, Nikita Soloviov, which has no apparent relation to Complainants’ “NATWEST” mark or to the “natwest-banks.com” name. This is evidence that Respondent is not commonly known by the name. *See Nike, Inc. v. BargainName.com*, FA 496731 (Nat. Arb. Forum August 2, 2005) (pointing out that the respondent had registered the domain name <nikezone.com> under the name “BargainName.com” and noting that based on the Whois contact information, one can infer that the respondent is not commonly known by the name).

The domain name was registered and is being used in bad faith.

Complainants’ “NATWEST” mark is a registered and well-known trademark. Further, Complainants have applied to register the “NATWEST” mark in the Russian Federation, where Respondent is located. Respondent is thus deemed to have actual or constructive knowledge of the mark. *State Farm Mutual Auto. Ins. Co. v. Unasi, Inc.*, FA 521055 (Nat. Arb. Forum Aug. 29, 2005). Based on the fame of Complainants’ mark, which is used in providing service to millions of customers, the fact that Respondent chose a domain name which fully incorporates Complainants’ mark, and the fact that Respondent has added to Complainants’ “NATWEST” mark the word “bank,” it can be inferred that

Respondent had knowledge of Complainants' mark when it registered the domain name and is trying to take advantage of Complainants' goodwill. In *Morgan Stanley v. Blog Network Int'l*, FA 564204 (Nat. Arb. Forum Oct. 28, 2005), the panel stated, “[t]here is a **legal presumption of bad faith, when Respondent reasonably should have been aware of Complainant’s trademarks, actually or constructively.**”

Respondent's use of the <natwest-banks.com> domain name is in bad faith because the domain name contains in its entirety Complainant's trademark which has long been in substantial use and has a strong reputation and is well-known, and because there is no evidence of any actual or contemplated good faith basis for Respondent's use of the domain name. Given the fame of Complainant's "NATWEST" mark and the confusingly similarity of the domain name to Complainant's "NATWEST" mark, Respondent could not use the domain name for any non-infringing purpose. *See Alitalia-Linee Aeree Italiane S.P.A. v. Colour Digital*, WIPO Case No. D2000-1260 (finding bad faith on the basis that there appeared to be no possible legitimate use for the domain name where the respondent had so far failed to make any use of the domain name and was located in the same country as the complainant, thus having constructive knowledge of the trademark). Accordingly, based on Respondent's actual or constructive knowledge of Complainants' established trademark and its failure thus far to use the domain name for a legitimate purpose, Respondent's registration and use of the confusingly similar domain name was and is in bad faith.

Further, as discussed above, Respondent's use of the domain name <natwest-banks.com> to link to a parking page (and, currently, his lack of use of the domain name to operate any active site at all) is analogous to passive holding. This constitutes additional evidence of bad faith satisfying the elements under ICANN policy. Indeed, in one recent proceeding initiated by Complainant to recover a domain name that closely resembled the one at issue here – namely, "natwest-onlinebanking.com" – the Panelist concluded that the Respondent's passive holding of the domain name constituted bad faith under the Policy:

Respondent's website at the disputed domain name now resolves to a blank page . . . Respondent's failure to make use of the <natwest-onlinebanking.com> domain name provides further evidence of bad faith registration and use pursuant to Policy ¶4(a)(iii). *See Phat Fashions, LLC v. Kruger*, FA 96193 (Nat. Arb. Forum Dec. 29, 2000) (finding bad faith under Policy ¶4(b)(iv) even though the respondent has not used the domain name because "it makes no sense whatever to wait until it actually 'uses' the name, when inevitably, when there is such use, it will create the confusion described in the Policy"); *see also Clerical Med. Inv. Group Ltd. v. Clericalmedical.com*, D2000-1228 (WIPO Nov. 28, 2000) (finding that merely holding an infringing domain name without active use can constitute use in bad faith).

National Westminster Bank plc v. Webname Solution, FA 766723 (Nat. Arb. Forum Sept. 12, 2006); *see also BCR, Inc v. None*, FA 615308 (Nat. Arb. Forum Feb. 14, 2006) ("[T]he passive holding of a valuable trademark . . . constitutes bad faith. This is not one of the enumerated bad faith grounds under ¶4(b)(i-iv) of the Policy, but Rule 15(a) of the Rules gives the Panel the authority to find additional grounds for bad faith when appropriate, and this particular ground is widely known and accepted in Policy decisions."). **Numerous panels have made it clear that the passive holding of a domain name that incorporates a famous trademark constitutes bad faith registration and use of the domain name under ICANN Policy ¶4(a)(iii).** *See, e.g., National Westminster Bank plc v. Bennett*, FA 709188 (Nat. Arb. Forum June 28, 2006); *Telstra Corp. v. Nuclear Marshmallows*, D2000-0003 (WIPO February 18, 2000); *Sony Kabushiki Kaisha v. sony.net*, D2000-1074 (WIPO November 28, 2000); *Guerlain S.A. v. Peikang*, D2000-0055 (WIPO March 21, 2000).

In *America Online, Inc. v. Clemett*, FA 157297 (Nat. Arb. Forum June 25, 2003) the respondent held several domain names infringing on the complainant's AOL mark for seven to ten months without making use of them. The *America Online* panel noted that since each of the domain names incorporated the complainant's famous and registered mark, it was unlikely that the respondent would be able to find any good faith use for the domain names, and in any event, the respondent failed to explain its infringing behavior to the panel. Thus, the panel concluded that the respondent's passive holding of the domain names was in bad faith under Policy ¶4(a)(iii). *See also DCI S.A. v. Link Commercial Corp.*, D2000-1232 (WIPO Dec. 7, 2000) (concluding that the respondent's passive holding of the domain name satisfies the requirements of the Policy); *Clerical Med. Inv. Group Ltd. v. Clericalmedical.com*, D2000-1228 (WIPO Nov. 28, 2000) (finding that merely holding an infringing domain name without active use can constitute use in bad faith).

In this case, Respondent has owned the domain name "natwest-banks.com", which fully incorporates Complainant's famous and registered "NATWEST" trademark, for almost a year and has failed to make any legitimate use at all of the domain name. Just as in *WebName Solution*, *BCR*, and *America Online*, and the numerous other cases cited above, Respondent's passive holding of a domain name infringing on Complainant's trademark constitutes bad faith registration and use.

Finally, to the extent that Respondent's use of the domain name could be construed as more than passive holding because the parking page to which the domain name originally resolved contained certain commercial links, such use evidences the Respondent's bad faith under ICANN policy as well. In *Harcourt, Inc. v. PX Publishing Ltd*, the panel held bad faith existed where the respondent was using a domain name confusingly similar to the complainant's trademark to link to a generic site with various commercial links. WIPO Case No. D2005-1078 (Nov. 30, 2005). The panel found that the respondent was using the complainant's trademark to divert Internet users to its website for commercial gain and stated that "there is nothing on the website which could serve to justify such use since it only lists commercial links under the headlines of "Travel", "Health and Beauty", "Computers", "Legal Help", "Financial Planning", "Health Products", "Professional

Services”, “Online Store”, etc.” Similarly, in this case, Respondent has used the domain name to link to a website containing commercial links. The only explanation for Respondent’s use of Complainant’s marks is its attempt to divert internet users to its website for its own commercial gain by causing confusion as to the source or affiliation of the domain name. This constitutes bad faith under the ICANN Policy ¶4(b)(iv).

For all of the above reasons, Respondent’s registration and use of the domain name <natwest-banks.com> was and continues to be in bad faith.

B. Respondent failed to submit a Response in this proceeding.

FINDINGS

Complainant, the Royal Bank of Scotland Group plc, is a leading financial services provider and is one of the oldest banks in the United Kingdom. The Royal Bank of Scotland Group plc owns several subsidiaries, including Complainant National Westminster Bank plc.

Complainant National Westminster Bank plc, is a financial institution based in the United Kingdom that offers a wide variety of personal and business banking and financial services, including credit cards. In connection with its offering of financial and banking services, Complainant National Westminster Bank plc holds several trademark registrations with the United Kingdom Patent Office (i.e., Reg. No. 1,278,207 issued January 29, 1990) and the United States Patent and Trademark Office (“USPTO”) (i.e., Reg. No. 1,241,454 issued June 7, 1983) for the NATWEST mark. Complainant National Westminster Bank plc also holds several domain name registrations, including <natwest-bank.com>, <natwest-banks.net>, <natwest-bank.net>, and <natwest.com>, all of which link to Complainant’s official website. Hereinafter, both Complainant The Royal Bank of Scotland Group plc and Complainant National Westminster Bank plc will be referred to collectively as “Complainant.”

Respondent, Nikita Soloviov, registered the <natwest-banks.com> domain name on October 15, 2005. The disputed domain name initially resolved to a holding website displaying the words, “This domain name was recently registered/purchased” and allowing Internet users to contact the holder of the disputed domain name registration. Respondent’s disputed domain name featured various links to commercial websites offering products or services unrelated to Complainant’s financial services and banking business. The present web site claims the domain name was deleted for non-payment.

DISCUSSION

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

In view of Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of Complainant's undisputed representations

pursuant to paragraphs 5(e), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations and inferences set forth in the Complaint as true unless the evidence is clearly contradictory. *See Vertical Solutions Mgmt., Inc. v. webnet-marketing, inc.*, FA 95095 (Nat. Arb. Forum July 31, 2000) (holding that the respondent's failure to respond allows all reasonable inferences of fact in the allegations of the complaint to be deemed true); *see also Talk City, Inc. v. Robertson*, D2000-0009 (WIPO Feb. 29, 2000) ("In the absence of a response, it is appropriate to accept as true all allegations of the Complaint.").

Paragraph 4(a) of the Policy requires that Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (1) the domain name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (2) Respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered and is being used in bad faith.

Identical and/or Confusingly Similar

Complainant has submitted sufficient evidence Complainant holds valid trademark registrations with the United Kingdom Patent Office and the USPTO (*inter alia*) for the NATWEST mark. Complainant's trademark registrations for the NATWEST mark with the United Kingdom Patent Office and USPTO establish Complainant's rights in the mark pursuant to Policy ¶4(a)(i). *See Am. Int'l Group, Inc. v. Morris*, FA 569033 (Nat. Arb. Forum Dec. 6, 2005) ("Complainant has established rights in the AIG mark through registration of the mark with several trademark authorities throughout the world, including the United States Patent and Trademark office ('USPTO')..."); *see also AOL LLC v. Interrante*, FA 681239 (Nat. Arb. Forum May 23, 2006) ("Complainant has submitted evidence of its registration of the AOL mark with the USPTO. The Panel finds that such evidence establishes Complainant's rights in the mark pursuant to Policy ¶4(a)(i).").

Respondent's <natwest-banks.com> domain name is confusingly similar to Complainant's registered NATWEST mark pursuant to Policy ¶4(a)(i). Respondent's disputed domain name consists of Complainant's NATWEST mark, with the addition of a hyphen, the generic or descriptive term "banks," and the generic top-level domain ("gTLD") ".com." Prior panels have held the addition of a hyphen to a mark does not negate the creation of confusing similarity between the resulting domain name and the registered mark under Policy ¶4(a)(i). *See Innomed Techs., Inc. v. DRP Servs.*, FA 221171 (Nat. Arb. Forum Feb. 18, 2004) (finding that hyphens and top-level domains are irrelevant for purposes of the Policy); *see also Health Devices Corp. v. Aspen S T C*, FA 158254 (Nat. Arb. Forum July 1, 2003) ("[T]he addition of punctuation marks such as hyphens is irrelevant in the determination of confusing similarity pursuant to Policy

¶4(a)(i).”). The addition of the term “banks” to Complainant’s mark does not sufficiently distinguish Respondent’s disputed domain name from Complainant’s mark under Policy ¶4(a)(i), which is consistent with decisions of prior panels. *See Gillette Co. v. RFK Assocs.*, FA 492867 (Nat. Arb. Forum July 28, 2005) (finding that the additions of the term “batteries,” which described the complainant’s products, and the generic top-level domain “.com” were insufficient to distinguish the respondent’s <duracellbatteries.com> from the complainant’s DURACELL mark); *see also Marriott Int’l, Inc. v. Café au lait*, FA 93670, (Nat. Arb. Forum Mar. 13, 2000) (finding that the respondent’s domain name <marriott-hotel.com> is confusingly similar to the complainant’s MARRIOTT mark).

The addition of the gTLD “.com” does not create a distinct domain name for purposes of Policy ¶4(a)(i). *See Rollerblade, Inc. v. McCrady*, D2000-0429 (WIPO June 25, 2000) (finding that the top level of the domain name such as “.net” or “.com” does not affect the domain name for the purpose of determining whether it is identical or confusingly similar); *see also Pomellato S.p.A v. Tonetti*, D2000-0493 (WIPO July 7, 2000) (finding <pomellato.com> identical to the complainant’s mark because the generic top-level domain (gTLD) “.com” after the name POMELLATO is not relevant). Therefore, the Panel concludes Respondent’s <natwest-banks.com> domain name is confusingly similar to Complainant’s NATWEST mark pursuant to Policy ¶4(a)(i).

The Panel finds Policy ¶4(a)(i) satisfied.

Rights or Legitimate Interests

Pursuant to Policy ¶4(a)(ii), Complainant initially bears the burden of establishing Respondent lacks rights or legitimate interests in connection with the disputed domain name. Once Complainant demonstrates a *prima facie* case, the burden shifts to Respondent to establish he has rights or legitimate interests with respect to the disputed domain name under Policy ¶4(a)(ii). *See Do The Hustle, LLC v. Tropic Web*, D2000-0624 (WIPO Aug. 21, 2000) (holding that once the complainant asserts that the respondent has no rights or legitimate interests with respect to the domain, the burden shifts to the respondent to provide “concrete evidence that it has rights to or legitimate interests in the domain name at issue”); *see also Compagnie Generale des Matieres Nucleaires v. Greenpeace Int’l*, D2001-0376 (WIPO May 14, 2001) (“Proving that the Respondent has no rights or legitimate interests in respect of the Domain Name requires the Complainant to prove a negative. For the purposes of this sub paragraph, however, it is sufficient for the Complainant to show a *prima facie* case and the burden of proof is then shifted on to the shoulders of Respondent. In those circumstances, the common approach is for respondents to seek to bring themselves within one of the examples of paragraph 4(c) or put forward some other reason why they can fairly be said to have a relevant right or legitimate interests in respect of the domain name in question.”). Complainant has sufficiently established a *prima facie* case and this Panel will evaluate the evidence on record to determine whether Respondent has any rights or legitimate interests with respect to the disputed domain name under Policy ¶4(c).

The evidence on record indicates Respondent's <natwest-banks.com> domain name initially resolved to a holding website that displays the words "This domain name was recently registered/purchased" and provides Internet users with the ability to contact the owner of the domain name. The website initially located at the disputed domain name featured links to commercial websites unrelated to Complainant's financial services and banking business. The website now indicates the domain was terminated for non-payment. Consequently, Respondent's use of the <natwest-banks.com> domain name does not represent either a *bona fide* offering of goods or services pursuant to Policy ¶4(c)(i), or a legitimate noncommercial or fair use pursuant to Policy ¶4(c)(iii). See *Bank of Am. Fork v. Shen*, FA 699645 (Nat. Arb. Forum June 11, 2006) (finding that the respondent's use of a domain name to redirect Internet users to websites unrelated to a complainant's mark is not a *bona fide* use under Policy ¶4(c)(i)); see also *Golden Bear Int'l, Inc. v. Kangdeock-ho*, FA 190644 (Nat. Arb. Forum Oct. 17, 2003) ("Respondent's use of a domain name confusingly similar to Complainant's mark to divert Internet users to websites unrelated to Complainant's business does not represent a *bona fide* offering of goods or services under Policy ¶4(c)(i) or a legitimate noncommercial or fair use under Policy ¶4(c)(iii).").

Respondent is not commonly known by the <natwest-banks.com> domain name pursuant to Policy ¶4(c)(ii). According to the WHOIS information for the <natwest-banks.com> domain name, Respondent is known as "Nikita Soloviov." The evidence on record fails to indicate Respondent is a licensee of Complainant, or an authorized user of Complainant's NATWEST mark. As a result, the Panel finds Respondent is not commonly known by the disputed domain name under Policy ¶4(c)(ii). See *M. Shanken Commc'ns, Inc. v. WORLDTRAVELERSONLINE.COM*, FA 740335 (Nat. Arb. Forum Aug. 3, 2006) (finding that the respondent is not commonly known by the <cigaraficionada.com> domain name because the WHOIS information lists the registrant of the domain name as "WORLDTRAVELERSONLINE.COM," and no other evidence exists in the record indicating that the respondent is known by the domain name); see also *Compagnie de Saint Gobain v. Com-Union Corp.*, D2000-0020 (WIPO Mar. 14, 2000) (finding no rights or legitimate interest where the respondent was not commonly known by the mark and never applied for a license or permission from the complainant to use the trademarked name).

The Panel finds Policy ¶4(a)(ii) satisfied.

Registration and Use in Bad Faith

Respondent was using the disputed domain name to operate a website featuring links to third party websites offering goods or services unrelated to Complainant's financial services and banking business. The Panel concludes Respondent is taking advantage of the likelihood of confusion between Respondent's <natwest-banks.com> domain name and Complainant's NATWEST mark and attempting to capitalize on the goodwill established by Complainant in the mark and to get "click-through" commissions from the

traffic. The fact the domain name has been deleted for non-payment does not affect this analysis.

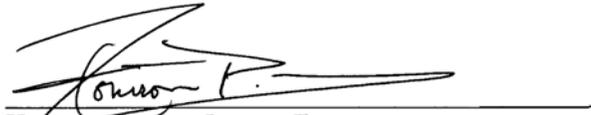
These actions constitute bad faith registration and use pursuant to Policy ¶4(b)(iv). *See AOL LLC v. iTech Ent, LLC*, FA 726227 (Nat. Arb. Forum July 21, 2006) (finding that the respondent took advantage of the confusing similarity between the <theotheraol.com> and <theotheraol.net> domain names and the complainant's AOL mark, which indicates bad faith registration and use pursuant to Policy ¶4(b)(iv)); *see also State Fair of Tex. v. Granbury.com*, FA 95288 (Nat. Arb. Forum Sept. 12, 2000) (finding bad faith where the respondent registered the domain name <bigtex.net> to infringe on the complainant's goodwill and attract Internet users to the respondent's website).

The Panel finds Policy ¶4(a)(iii) satisfied.

DECISION

Having established all three elements required under the ICANN Policy, the Panel concludes that relief shall be **GRANTED**.

Accordingly, it is Ordered that the <**natwest-banks.com**> domain name be **TRANSFERRED** from Respondent to Complainant.



Houston Putnam Lowry, Esq.
Arbitrator

Houston Putnam Lowry, Chartered Arbitrator, Panelist
Dated: November 3, 2006