

## **ADMINISTRATIVE PANEL DECISION**

Nomura International Plc. v. 茂南区桔家福百货店  
(maonanqujujiafubaihuodian)  
Case No. D2022-1479

### **1. The Parties**

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

The Respondent is 茂南区桔家福百货店 (maonanqujujiafubaihuodian), China.

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

The disputed domain name <nomurab.com> is registered with DNSPod, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 25, 2022. On April 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 11, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on May 11, 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 in English on May 13, 2022.

On May 11, 2022, the Center sent an email in English and Chinese to the Parties regarding the language of the proceeding. The Complainant confirmed its request that English be the language of the proceeding on May 13, 2022. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on May 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 6, 2022. The Respondent did not submit any

response. Accordingly, the Center notified the Respondent's default on June 7, 2022.

The Center appointed Joseph Simone as the sole panelist in this matter on June 14, 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, Nomura International Plc., is a leading player in the financial industry.

The Complainant and its related entities have an extensive global portfolio of trade marks containing the term "nomura", including the following:

- European Union Trade Mark Registration for NOMURA No. 002615136 in Classes 35 and 36, registered on August 10, 2005;
- China Trade Mark Registration for NOMURA No. 26883241 in Class 35, registered on June 21, 2019; and
- China Trade Mark registration for NOMURA No. 3963328 in Class 36, registered on March 28, 2007.

The Complainant and its related entities also own the domain names <nomura.com> and <nomuraholdings.com>.

The disputed domain name was registered on March 15, 2022.

According to screenshots provided by the Complainant, at the time of filing the Complaint, the disputed domain name resolved to a cryptocurrency trading platform which required login details and a verification code to enter the platform.

At the time of drafting of this Decision, the disputed domain name resolved to an error page.

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

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

The Complainant asserts that it has prior rights in the NOMURA trade marks and that it is a leading player in its fields of business.

The Complainant further asserts that the disputed domain name is identical or confusingly similar to the Complainant's NOMURA trade marks, and the addition of the alphabet "b" is insufficient to substantially mitigate the risk of confusion vis-à-vis the Complainant's NOMURA trade marks.

The Complainant also asserts that it has not authorized the Respondent to use the NOMURA mark and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services.

The Complainant further asserts that there is no evidence suggesting that the Respondent has any connection to the NOMURA mark in any way, and that there is no plausible good faith reason for the Respondent to have registered the disputed domain name, especially after considering the relevant circumstances. The Complainant therefore concludes that the registration and any use of the disputed domain name whatsoever must be in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Language of the Proceeding**

In accordance with paragraph 11(a) of the Rules:

"[...] the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding."

In this case, the language of the Registration Agreement for the disputed domain name is Chinese. Hence, the default language of the proceeding should in principle be Chinese.

However, the Complainant filed the Complaint in English, and requested that English be the language of the proceeding, asserting *inter alia* that:

- The Complainant will be disproportionately prejudiced if the proceeding is conducted in Chinese as it will incur substantial expenses and delays for translation of documents; and
- The disputed domain name resolve to subdomain pages in English, indicating that the Respondent is able to communicate proficiently in English.

The Respondent was notified in both Chinese and English of the language of the proceeding and the Complaint, and the Respondent did not comment on the language of the proceeding or submit any response.

After considering the relevant circumstances, the Panel determined that the language of the proceeding shall be English, and the Panel has issued this decision in English. The Panel further finds that such determination would not cause any prejudice to either Party and would ensure that the proceeding takes place with due expedition.

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

The Panel acknowledges that the Complainant has established rights in the NOMURA trade marks in many territories around the world.

Section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") makes clear that a domain name which consists of a common, obvious, or intentional misspelling of a trade mark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. The Panel considers that the disputed domain name is an obvious misspelling of the Complainant's trade marks as it adds one more alphabet "b" but is otherwise identical to the Complainant's trade mark.

The Panel therefore finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its rights in the NOMURA trade marks and in demonstrating that the disputed domain name is identical or confusingly similar to its marks.

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

Pursuant to paragraph 4(c) of the Policy, the complainant is required to establish a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such *prima facie* case is

made out, the respondent bears the burden of producing evidence in support of its rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant may be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See [WIPO Overview 3.0](#), section 2.1.

The Complainant asserts that it has not authorized the Respondent to use its trade marks and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services.

Thus, the Complainant has established its *prima facie* case with satisfactory evidence.

The Respondent did not file a response and has therefore failed to assert factors or put forth evidence to establish that it enjoys rights or legitimate interests in the disputed domain name. As such, the Panel concludes that the Respondent has failed to rebut the Complainant's *prima facie* showing of the Respondent's lack of rights or legitimate interests in the disputed domain name, and that none of the circumstances of paragraph 4(c) of the Policy is applicable in this case.

Therefore, there is no evidence adduced to show that the Respondent, prior to the notice of the dispute, has used or has demonstrated its preparation to use the disputed domain name in connection with a *bona fide* offering of goods or services. There is also no evidence adduced to show that the Respondent has been commonly known by the disputed domain name or the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

Accordingly, and based on the Panel's findings below, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

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

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trade mark or service mark) or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances in which bad faith may be found. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). The overriding objective of the Policy is to curb the abusive registration of domain names in circumstances where the registrant seeks to profit from and exploit the trade mark of another party. See *Match.com, LP v. Bill Zag and NWLAWS.ORG*, WIPO Case No. [D2004-0230](#).

For reasons discussed under this and the preceding heading, the Panel believes that the Respondent's conduct in this case constitutes bad faith registration and use of the disputed domain name.

When the Respondent registered the disputed domain name, the NOMURA trade marks were already widely known and directly associated with the Complainant's activities. UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names comprising typos) to a famous or widely known trade mark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Given the extensive prior use and fame of the Complainant's marks, in the Panel's view, the Respondent should have been aware of the Complainant's marks when registering the disputed domain name. As mentioned above, the disputed domain name consists of an obvious typosquatting variation of the Complainant's distinctive trade mark.

The Respondent has provided no evidence to justify its choice of the term "nomura" in the disputed domain name. In light of the foregoing, it would be unreasonable to conclude that the Respondent – at the time of the registration of the disputed domain name – was unaware of the Complainant's trade mark.

The Complainant's registered trade mark rights in NOMURA for its products and services predate the registration date of the disputed domain name by almost two decades. A simple online search (e.g., via Google and Baidu) for the term "nomura" would have revealed that it is a world-renowned brand.

The Panel is therefore of the view that the Respondent registered the disputed domain name with full knowledge of the Complainant's trade mark rights.

The disputed domain name once resolved to a website displaying a logo almost identical to the Complainant's trade mark and offering cryptocurrency trading platform services. The Complainant asserts that this cryptocurrency trading platform requires login details and a verification code to access. Once users sign up on the website using the verification code, they can access the platform, which then requires users to upload financial information. The Complainant further asserts that many victims in Thailand have already lost money through using this website. The Respondent has not rebutted the Complainant's assertions. Therefore, it is reasonable to conclude that the Respondent has intentionally attempted to attract Internet users to its website by creating confusion with the Complainant's mark. And such use may of course also disrupt the Complainant's business.

Accordingly, the Panel finds that the disputed 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 disputed domain name, <nomurab.com>, be transferred to the Complainant.

*/Joseph Simone/*

**Joseph Simone**

Sole Panelist

Date: June 28, 2022