

**NOMINET UK DISPUTE RESOLUTION SERVICE**

**DRS 05410**

**DECISION OF INDEPENDENT EXPERT**

**1. Parties**

Complainant : GlobalSign Limited

Address : 6 Kings Row  
Armstrong Road  
Maidstone  
Kent

Postcode : ME15 6AQ

Country : GB

Respondent : Dotname Corp

Address : Unknown

Postcode : E1 6TE

Country : GB

**2. The Domain Name**

globalsign.co.uk

**3. Procedural Background**

3.1. On 29 January 2008 the Complaint was lodged with Nominet in accordance with the Nominet UK Dispute Resolution Service Policy ("the Policy"). Hard copies of the Complaint and its attachments were received in full by Nominet on 31 January 2008.

3.2. On 31 January 2008 Nominet validated the Complaint. On the following day it sent a copy of the Complaint to the Respondent, and *inter alia* advised the Respondent that the Procedure for the conduct of proceedings under the Nominet UK Dispute Resolution Service ("the Procedure") had been invoked and allowed the Respondent 15 working

days within which to respond to the Complaint.

- 3.3. The Complaint was sent to the postal contact details in Nominet's records, and to [postmaster@globalsign.co.uk](mailto:postmaster@globalsign.co.uk). It was also sent to the administrative contact details held by Nominet, [ukdomain@dotname.co.kr](mailto:ukdomain@dotname.co.kr). The postal copy appears to have been returned to Nominet "addressee unknown".
- 3.4. No response was received from the Respondent. On 26 February 2008 the Complainant was notified that no response had been received, and was invited to pay the relevant fee to Nominet in order for the matter to be referred to an independent Expert for a Decision.
- 3.5. The Complainant paid the relevant fee to Nominet on 29 February 2008. On the same day Bob Elliott was selected and duly appointed as Expert.

#### **4. Outstanding Formal/Procedural Issues**

- 4.1. Although the postal copy of the Complaint appears to have been returned to Nominet, to send the Complaint to the Respondent. Nominet appears to have used the appropriate email contact details. Nominet has also received an email from a Mr Kim Dongsoo on 27 February 2008, indicating that he had received "your letter regarding to [globalsign.co.uk](http://globalsign.co.uk) from my registrar". Nominet invited Mr Dongsoo to explain his relationship to the Respondent, but he appears not to have done so.
- 4.2. In the circumstances, the Expert is satisfied that the Complaint should have come to the attention of the Respondent.

#### **5. The Facts**

- 5.1. The Complainant is a UK registered company. It appears to have been operating since 2006 in the UK, as part of a group of companies which originally began in Belgium in 1996 (GlobalSign NV/SA), and which has been trading as GlobalSign across Europe since 1998. Its expansion into the UK was accompanied by other expansion in 2006 into the US and Japan, through other sister companies.
- 5.2. GlobalSign is now best known as a Commercial Certification Authority, responsible for authenticating individuals, companies, devices and servers

and binding the authenticated identity to a digital certificate using various methods of cryptography. Once issued, a digital certificate can be used to digitally sign and encrypt data. Such certificates have many applications, with their primary usage being for SSL (Secure Sockets Layer) security, email security, code signing and document signing.

- 5.3. GlobalSign is a well known security vendor in all areas of digital certificate technology. It is particularly well known for providing digital certificates to enable SSL security. SSL is a widely implemented security standard to create a secure link between a web browser and a web server (such as the server hosting a website). SSL is commonly used to secure credit card transactions, log-in pages, web mail, database connections and general browser-to-server data transference.
- 5.4. Worldwide, approximately 400,000 web sites use SSL. GlobalSign appears to be the seventh largest SSL provider worldwide and says it is growing rapidly.
- 5.5. The Complainant has provided evidence showing that it is well known within the industry. It has also provided examples of its UK customers, including companies such as Adobe. It has also provided links to its web site, and copies of advertisements. The Complainant and its sister companies invest significant sums in promoting their brand, and claim to spend in excess of \$40,000 per month on worldwide brand awareness, with approximately 30% of that being spent in the UK on UK campaigns and target advertising, in particular for the Complainant's SSL Certificate products.
- 5.6. GlobalSign NV/SA appears to be the owner of registered Community and International Trade Marks for GLOBALSIGN, in class 42.
- 5.7. Little is provided in the Complaint by way of information in respect of the Respondent. By reference to the archive.org online archive service, the Complainant has pointed to the Domain Name being used for a web site which mirrored a Korean SSL Certificate resale web site InnoSSL.com, for the purpose of selling products and services which directly compete with the Complainant. Although the Complainant has not provided print outs of the pages involved, the Expert has been able to access a page from 26

June 2007 through the online archive service, which supports the Complainant's contentions. Although the online archive service also lists earlier pages, those other pages are not currently accessible, or show only holding pages. The Complainant asserts that the Respondent has a history of reselling SSL Certificates using the Domain Name, but other than the reference to the archive.org website, no evidence is provided.

## **6. The Parties' Contentions**

### Complainants' Submissions

#### Rights

- 6.1. The Complainant relies upon its trading history, the promotion of its brand, recognition within the industry, and the registered Community and International trade marks in order to claim that it has Rights within the meaning of the Policy.

#### Abusive Registration

- 6.2. The Complainant says that the Respondent's use of the Domain Name to mirror the InnoSSL.com web site for the purpose of selling products and services that directly compete with GlobalSign and to use the established GlobalSign name to capitalise on the brand equity established over many years by GlobalSign, leads to customer confusion, specifically in the UK. The Complainant accepts that, as of January 2008, the Domain Name is no longer used to mirror the InnoSSL.com domain, and now appears to be unused. However, the Complainant relies upon the earlier evidence of misuse referred to above.

- 6.3. The Complainant seeks the transfer of the Domain Name to itself.

#### Respondent's Submissions

- 6.4. The Respondent has not replied.

## **7. Discussion and Findings**

### **General**

- 7.1. In order to succeed in these proceedings, paragraph 2.b of the Policy requires the Complainant to prove on the balance of probabilities that both elements of the test set out in paragraph 2.a are present namely that:

- i. the Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Name; and
- ii. the Domain Name, in the hands of the Respondent, is an Abusive Registration.

#### Complainant's Rights

- 7.2. The Complaint generalises the ownership and extent of the use of the GlobalSign brand by failing to distinguish clearly between the Complainant and its sister companies. It would appear that the primary owner of the brand is GlobalSign NV/SA. However, as regards the Complainant itself (the UK company), the Complainant has given specific details of UK customers, and the extent of advertising spend in the UK. It is clearly connected with the other GlobalSign companies, and the Expert presumes that it has the rights to use the GlobalSign brand in the UK.
- 7.3. On the basis of the material provided, the Expert is satisfied that the Complainant has established that it has rights in the mark GlobalSign in the UK, which is identical to the Domain Name.

#### Abusive Registration

- 7.4. The Complainant also has to show that the Domain Name is an Abusive Registration. Paragraph 1 of the Policy defines "Abusive Registration" as a Domain Name which either:
- i was registered or otherwise acquired in a manner, which at the time when the registration or acquisition took place, took unfair advantage of or was unfairly detrimental to the Complainant's Rights;
- OR
- ii has been used in a manner, which took unfair advantage of or was unfairly detrimental to the Complainant's Rights.
- 7.5. A non-exhaustive list of factors which may be evidence that the Domain Name is an Abusive Registration is set out in paragraph 3.a. of the Policy. Those include, under paragraph 3.a.ii "circumstances which indicate that the Respondent is using the Domain Name in a way which has confused people or businesses into believing that the Domain Name is registered

to, operated or authorised by, or otherwise connected with the Complainant”.

7.6. The evidence provided by the Complainant as to the Respondent’s misuse of the Domain Name is limited (and the Expert would have preferred the Complainant to have attached to its Complaint copies of the archive web page(s) which it specifically sought to rely upon). In the event, though, the page from 26 June 2007 appears to be conclusive (and is not contested or explained by the Respondent). It shows a mirror page to that maintained by one of the Complainant’s competitors, InnoSSL.com, primarily aimed at reselling SSL Certificates, which is the primary product associated with the GlobalSign brand. Using the Domain Name in that way, it is very likely that the Respondent will have caused customer confusion, in that customers seeking the Complainant’s products, particularly in the UK, will be likely to have used the Domain Name in their web browsers, but will instead have found a site advertising a competitor’s products.

7.7. In the circumstances, the Expert is satisfied that the Complainant has made out its case on the balance of probabilities, and that the Domain Name, in the hands of the Respondent, is an Abusive Registration within the meaning of the Policy.

**8. Decision**

8.1. The Expert finds that the Complainant has rights in the mark GlobalSign which is identical to the Domain Name. The Expert further finds that the Domain Name, in the hands of the Respondent, is an Abusive Registration.

8.2. The Expert therefore decides that the Domain Name should be transferred to the Complainant.

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Bob Elliott  
12 March 2008