



Claim Form

In the High Court Chancery Division

Fee Account no.

For court use only

Claim no. HC-2015-000379

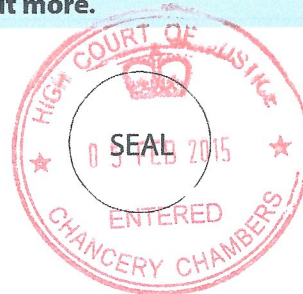
Issue date 05-02-2015

You may be able to issue your claim online which may save time and money.
Go to www.moneyclaim.gov.uk to find out more.

Claimant(s) name(s) and address(es) including postcode

YOYO.EMAIL LTD
38 Market Square,
Toddington,
Dunstable, Bedford LU5 6BS

MASTER
PRICE



Defendant(s) name and address(es) including postcode

1. RBS BANK. 36 St. Andrew Square Edinburgh, EH2 2YB, Scotland.
2. NATWEST BANK PLC. 135 Bishopsgate, London, EC2M 3UR.
3. COUTTS & Co 440 Strand, London, WZ2R OQS.

Brief details of claim

Domain Name Dispute (rbsbank.email, rbs.email natwest.email, coutts.email).

In accordance with a contract by which the Claimant registered the domain names in question the Claimant submitted to arbitration proceedings brought by the Defendants for the transfer of those domain names to the Defendants. As a result the above issue have previously been explored by a three person Administrative Panel. Those proceedings were governed by the Uniform Domain Name Dispute Resolution Policy [UDRP] of the Internet Corporation for Assigned Names and Numbers [ICANN]. On 11 August 2014 the Administrative Panel decided, purportedly in accordance with the UDRP, that the Claimant had no legitimate interest in the domain names that it had acted in bad faith in registering them, and that, accordingly, the domain names should be transferred to the Defendants. It is submitted that the overall Administrative Panel decision of 11 August 2014 is fundamentally flawed, because there is no material upon which such an Administrative Panel could reasonably have come to such a decision. The Claimant claims that the decision was perverse. Claimant seeks a declaration that will reverse the Panel's decision on the issues of the Claimant's legitimate interest in the domain names, whether the Claimant has acted in bad faith

Value

Non-Monetary Relief

You must indicate your preferred County Court Hearing Centre for hearings here (see notes for guidance)

High Court Chancery Division

Defendant's
name and
address for
service including
postcode

ROYAL BANK OF SCOTLAND
GROUP PLC & CO
36 St. Andrew Square
Edinburgh
EH2 2YB
Scotland.

	£
Amount claimed	0.00
Court fee	480.00
Legal representative's costs	TBC
Total amount	£480.00

For further details of the courts www.gov.uk/find-court-tribunal.

When corresponding with the Court, please address forms or letters to the Manager and always quote the claim number.

Claim No.

Does, or will, your claim include any issues under the Human Rights Act 1998? ☐ Yes ☒ No

Particulars of Claim (attached)(to follow)

See Attached

Statement of Truth

* The Claimant believes that the facts stated in these particulars of claim are true.

* I am duly authorised by the claimant to sign this statement

Full name Giovanni Laporta

Name of claimant's legal representative's firm Mr. Francis Evans QC

signed 

(Claimant)

position or office held Director

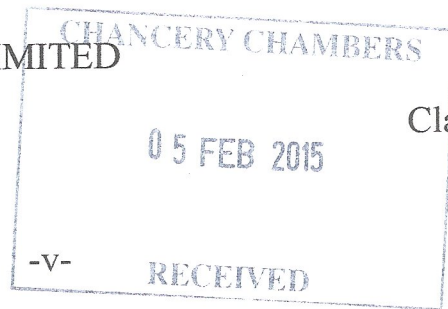
(if signing on behalf of firm or company)

**delete as appropriate*

Mr. Francis Evans QC
(Claimants Address)

Claimant's or claimant's legal representative's
address to which documents or payments
should be sent if different from overleaf including
(if appropriate) details of DX, fax or e-mail.

YOYO.EMAIL LIMITED



Claimant

ROYAL BANK OF SCOTLAND GROUP PLC & CO
NATWEST BANK PLC
COUTTS

Defendants

NATURE OF CLAIM

This is an application for permission to apply for Certain declarations to be made by a Judge of the Chancery Division under the Senior Courts Act 1981 section 19.

The Claimant's claim is for

- (i) a declaration that there was no evidence upon which the Administrative Panel of the Arbitration and Mediation Center of the World Intellectual Property Organisation could have stated in its decision on 11 August 2014 in respect of case number D2014-0825 between the parties that the Claimant had acted in bad faith in registering the domain names, rbsbank.email, rbs.email natwest.email and coutts.email
- (ii) a declaration that there was no evidence upon which the Administrative Panel of the Arbitration and Mediation Center of the World Intellectual Property Organisation could have stated in its decision on 11 August 2014 in respect of case number D2014-0825 between the parties that the Claimant did not have a legitimate interest in the domain names rbsbank.email, rbs.email natwest.email and coutts.email
- (iii) a declaration that owing to (i) and (ii) above the decisions by the Panel against the interests of the Claimant, including to order a transfer of the domain names in question to the Defendants, were perverse.

(iv) a declaration that the Claimants intended engagement of the Defendants trademarks is not trademark use.

Further or in the alternative,

(v) a declaration that the Panel's decisions against the Claimant were the result of bias, not in favour of the Defendants in particular, but in favour of trademark owners generally.

PARTICULARS OF CLAIM

1. The Claimant is a technology company owned by an inventor and established businessman. On March 27, 2014, the Claimant purchased domain names rbsbank.email, rbs.email, natwest.email and courtts.email. The Claimant has devised a way to use domain names and the emails that flow from them to create a domain name directory and a new email system based on that directory to record independently the sending and receipt of emails. It involves recruiting users of emails to adopt a recording system in the same way paper based registered mail records the sending and delivery of postal items. The emails would not be able to be read by anyone other than the sender or recipient. The Claimant is therefore in the position of a courier of email. The Claimant has devised this system in good faith, has good faith intentions in relation to all concerned including the general public.

2. The Defendants complain, under paragraph 3 (b)(ix) of the Uniform Domain Name Dispute Resolution Policy of the Internet Corporation for Assigned Names and Numbers, that the domain name in each case includes a trademark held by a Defendants which is identical or confusingly similar to the trademark. This is followed by a wholly unfounded assumption that the Claimant cannot have a legitimate interest in the domain names and that the Claimant must, therefore, have registered the domain names in question in bad faith. It is conceded that if the ¹domain names in question are confusingly similar to the trademarks in question, and, if the Applicant has no legitimate interest in the domain names, and, if the Applicant registered the domain names in bad faith, that the domain names in question should be transferred to the Defendants.

3. However, it is submitted on behalf of the Claimant that there is absolutely no evidence of, nor fair inference which can be drawn that, the registration of the domain names were made in bad faith. The Claimant intends

¹ Three factors of the purchase rules of UDRP policy which the Defendants must satisfy.

to provide a useful free service without anyone ever seeing the domain name, apart from a handful of the Claimants technicians, and the recipient of emails (who cannot possibly be confused by their own name). Therefore there can be no issue of anyone being misled by the Claimant's engagement of the domain names in question. There can be no issue of passing off. Accordingly, there can be no detriment to the interests of any trade mark holder in the behind the scenes manner the domain names will be engaged.

4. With the Claimant having invested in excess of one hundred thousand pounds in this proposed system of providing a useful free service of recorded sending and delivery of emails with the use of the domain names in question, neither can it fairly be asserted that the Claimant has no legitimate interest in the domain names in question.

5. It might be possible for the Claimant to eventually to generate a financial income from an additional service associated with the operation of the proposed recorded email service. This would be following the hoped for success of that service of recorded sending and delivery of emails which itself would remain free. The potential profit from the additional service or services is in the present circumstances irrelevant. Neither is it relevant that there is a manner in which the proposed service could be delivered engaging domain names which do not include another party's trade mark. Bearing in mind the Claimant's case, and the reasons for mounting it, as to why the Panel Decision is fatally flawed (namely, because of the total lack of evidence for the Panel's conclusions) the relevant questions in the circumstances remain whether there is any evidence at all of Claimants' bad faith and whether Claimant has a legitimate interest in the domain names in question, both of which it is submitted must be answered in the Claimant's favour.

6. This case has implications for those who in good faith would seek legitimately to engage someone else's trademark in a manner which could not conceivably cause any detriment to the mark or interests of its owner. The point of no detriment to the mark or interests of its owner is made particularly poignantly in the present case where apart from the owners themselves almost nobody sees the trademark as a result of the proposed engagement of it.

7. In accordance with the contract by which the Claimant registered the domain names in question the Claimant submitted to arbitration proceedings brought by the Defendants for the transfer of those domain names to the Defendants. As a result the above issues have previously been explored by a three person Administrative Panel of the World Intellectual Property Organisation's Arbitration and Mediation Center. Those proceedings were governed by the Uniform Domain Name Dispute Resolution Policy [UDRP] of the Internet Corporation for Assigned Names and Numbers [ICANN]. On 11

August 2014 the Administrative Panel decided, purportedly in accordance with the UDRP, that the Claimant had no legitimate interest in the domain names that it had acted in bad faith in registering them, and that, accordingly, the domain names should be transferred to the Defendants.

8. It is submitted that the overall Administrative Panel decision of 11 August 2014 is fundamentally flawed, because there is no material upon which such an Administrative Panel could reasonably have come to such a decision. The Claimant claims that the decision was perverse.

9. Until recently the engagement of another's trademark almost inevitably involved the exhibiting of the mark to others for an advantage to the person or body engaging the mark belonging to another. This has led to an inclination towards deciding that just about any such engagement of a trademark should be seen as taking an unfair advantage in respect of the trademark and that the engagement of the mark in those circumstances must be in bad faith. It is submitted that the paragraphs above establish that there are circumstances in which the employment of another's trademark for an advantage to the employer does not necessarily involve bad faith. However, the abovementioned inclination in favour of the trademark holder can lead, and in the present case has led, to a self evident error by the Panel concerning the bona fides of the Claimant which wishes to engage certain trademarks belonging to the Defendants, in each case as part of a domain name.

10. Vis a vis the Claimant and the Defendants the effect of the declarations sought will be to reverse the Panel's decision on the issues of the Claimant's legitimate interest in the domain names, whether the Claimant has acted in bad faith and whether ownership and control of the domain names should be transferred to the Defendants. A witness statement on behalf of the Claimant providing further details in respect of the current issues between the parties and a draft proposed order will follow.