



nominet

The story of Brad and Ches

Emily Taylor

Overview

- Background – the facts
- Relevance of the judgement for domain name registries
- Lessons learned

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Factual background

A decorative graphic in the bottom-left corner of the slide, consisting of numerous thin, overlapping, curved lines that create a sense of motion and depth. The lines are light purple and curve from the left edge towards the bottom right.

Attacks on WHOIS

- January 2003, sustained data-mining attack on WHOIS database, using multiple proxies
- 24 January 2003, Nominet takes “drastic and unprecedented step” – suspension of WHOIS service.
- Late February 2003, mailout to over 50,000 *.uk* registrants
- Nominet receives hundreds of complaints
- Many believed them to be renewal notices
- Nominet received some cheques

UK Internet Registry

33 St James's Square London SW1Y 4J5
Online www.ukinternetregistry.com
Phone 0207 36 00 58 Fax 02070 36 00 58

notice date **20 February 2003**

total amount **£175.00**

reference details

Reference: 1212 0028 192

Reg ID: 4025 715



Registrant's name and address

REGISTRATION DETAILS

SAMPLE.CO.UK REGISTRATION ADVICE

Your .com domain corresponding to your registered .co.uk domain is currently **UNREGISTERED**. It is important today to have your .com and .co.uk domain names registered, secure your domain for a two year period by providing payment with the slip below.

Description	Amount
Registration of mitchell-struthers.com for 2 year period	£69.00
Web, URL and email forwarding → mitchell-struthers.co.uk	£106.00
Total	£175.00

Thank you for registering with UK Internet Registry Ltd.

Register your domain for the following:

Protection - internet users commonly confuse .co.uk and .com extensions for domains - make sure they find you every time
Image - .com is the internet's premier and most popular domain extension. When people think internet they think .com
Email - don't let your email be directed to anybody else when people put .com rather than .co.uk for your email address
Cybersquatting - prevent your competitors, cybersquatters or legitimate registrants from around the world registering your .com
Search Engines - the more domain names you have registered the more that can appear in search engine listings

PAYMENT SLIP

Reference Number: 1212 0028 192
Registrant:
Domain:
Amount: £175.00

UK Internet Registry

33 St James's Square London SW1Y 4J5
Online www.ukinternetregistry.com
Phone 02070 36 00 58 Fax 02070 36 00 58



PAYMENT METHOD	<input type="checkbox"/> Cheque	<input type="checkbox"/> Visa	<input type="checkbox"/> Mastercard	<input type="checkbox"/> Delta	<input type="checkbox"/> Amex	<input type="checkbox"/> Switch	<input type="checkbox"/> Solo	
CARD NUMBER	<input type="text"/>						EXPIRY	<input type="text"/>
NAME ON CARD	<input type="text"/>						SIGNATURE	<input type="text"/>
EMAIL	<input type="text"/>						PHONE	<input type="text"/>

18555591

PMC Interactive Inc
 PMC Interactive Inc
 70th Philip Cooper
 10 Harbottle Close
 Raddip
 Middlesbrough
 TA4 7EP

**Registration Reply Form
 Confirmation of Registration**

04340202133

This confirms that the DOMAIN NAME

VINE3V017A.CO.UK

is registered for the REGISTRANT

PMC Interactive Inc.

You must complete and return this form to Nominet:uk to ensure that your domain name registration is secure. Please read the instructions in the Registration Notes before completing this form. Please note that you cannot change the domain's name 'brand' using this form.

Section 1 Registrant Confirmation

Is the name of the registrant above correct?

If you have ticked 'NO', please write the full and correct Registrant name in the box below:

YES

NO

VINE TAVERNA LTD

Section 2 Address Confirmation

Is the Registrant address entered above correct?

If you have ticked 'NO', please write the correct address below:

Yes

NO

Address **528-530 VICTORIA ROAD**

SOUTH RULISLYP

M. D. BELFON

Postcode

TA4 0HE

Country

UK

Section 3 Contact Data Confirmation

Please give your other contact details below:

Tel No (no dialing code)

02087415228

Fax No (no dialing code)

02048454275

Email address



300755766

Continued overleaf,
 please turn over



7702850256

UK Internet Registry

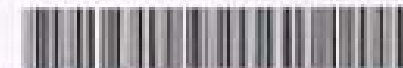
33 St James's Square London SW1Y 4LE
Online www.ukinternetregistry.com
Phone 0207 36 00 58 Fax 08000 36 00 58

Registrant's name and
address
"Errors precisely match errors in
.uk database records as at
January 2003"

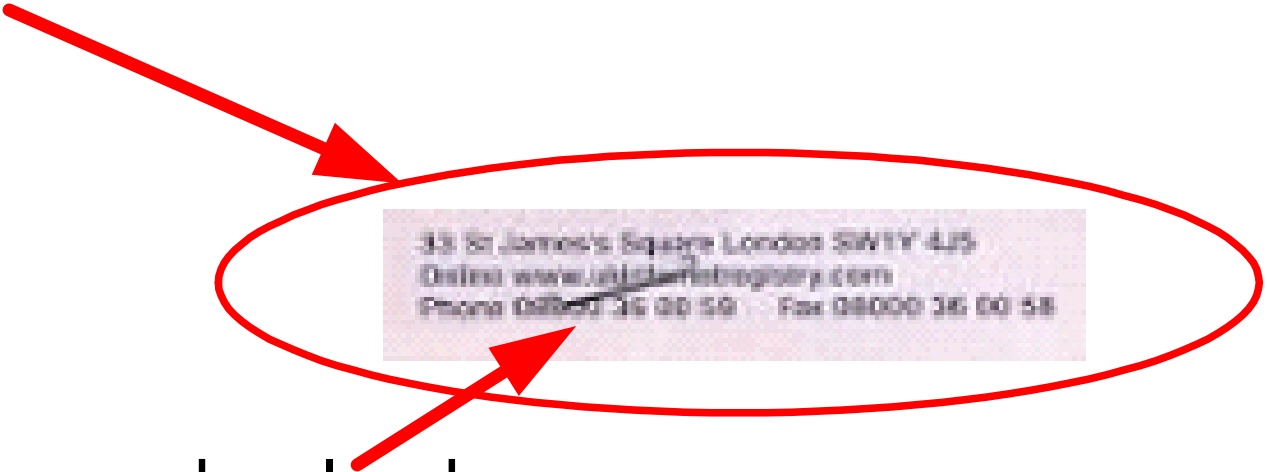
notice	date
	20 February 2003

total	amount
	£175.00

reference	details
	Reference: 1212 0028 192
	Reg ID: 4025 715



- Central London address
- “SW1Y 4J5”



43 St James's Square London SW1Y 4J5
Online www.ubiprototyping.com
Phone 0207 345 00 59 Fax 08000 345 00 58

Telephone number leads
to Australian-sounding
answer-phone message

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Trial on liability – June 2004

Events just before trial

- 4 defendants admit liability on the Friday before the trial, but still contend that the notices were not deceptive
- Bradley Norrish contests all liability
- The defendants don't intend to cross examine any witnesses, and lead no evidence themselves.

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Judgment on liability, September 2004

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Relevance to domain name registries

- There is copyright in the register database, AND the Whois database
 - Importance of copyright assignments
 - What's the position for split registries (eg auDA)?
- The term "registry" has a specific meaning within the DNS

“...even if unaware of the existence of Nominet UK, would be aware of the existence of a single administrator” for .uk



Also of interest...

- Quotes from RFC 1591
 - “Dr Postel succinctly described the DNS thus...”
- Quotes from CENTR position on WHOIS, and WIPO ccTLD Best Practices
 - Relevant in establishing that information about domain name registrations is made available free of charge through WHOIS

The evidence against Brad

- Domain name records with SWIY 4J5 link to Brad
- E-mails from January 2003, showing Brad was involved in the design of the notices
- About a returned cheque from the London office, Brad says:

"If this happens at piccadilly I'm going straight over there"

- French J, "It lies beyond the limits of credulity to suppose that Mr Norrish had no idea"

Judgment on damages, December 2005

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- Damages of AU \$810,953 for infringement of copyright
 - “notional licence fee”
 - Doesn’t matter that we would never have licensed
 - The database “lay at the heart of Nominet’s business”
 - “The significance of the Database was illustrated by the lengths to which Nominet had gone to keep it confidential and to prevent it from being copied”

Judgment on damages

- Additional damages for flagrancy of breach AU \$500,000
 - Equal highest ever awarded by an Australian court
 - “I accept...the need to deter similar infringements of copyright”
- Costs

Lessons learned

- Conducting litigation across national borders
- Using offline laws
- Getting the interest of the relevant authorities

Summary

- Use of “offline” intellectual property laws to take action against scammers.
- Use of legal action to raise profile, and deter others
- Difficulties in getting relevant authorities to take action
- Disruptive power of legal action