

Nominet victorious in copyright court battle

Australian court case vindicates decision to sue domain name scammers

Nominet, the .uk Internet domain name registry, is today celebrating success in its Australian court battle against several parties accused of copyright infringement and breaches of Australian fair trade laws by issuing misleading notices.

The case was brought by Nominet against Chesley Rafferty and Bradley Norrish and 3 of their companies in the Federal Court of Australia following Nominet's discovery in January 2003 that its WHOIS database had been the subject of concerted data mining attacks. This database is commonly used by Internet users to check who is the registrant of a domain name. The sheer scale of these assaults subsequently forced Nominet to suspend its WHOIS system for the only time in its six year history. The attacks captured details of many .uk domain name holders and resulted in 50,000 registrants receiving misleading notices from "UK Internet Registry" regarding their domain name registrations. Justice French said that the notices sent by UK Internet Registry were "nothing less than deceitful".

Following extensive admissions by 4 of the 5 respondents, the trial proceeded against Mr Norrish alone. The judge found that Mr Norrish had authorised copyright infringement, and was involved in misleading or deceptive conduct: "It lies beyond the limits of credulity to suppose that Mr Norrish...had no idea of [what was going on]. ...He was in the scheme with Mr Rafferty."

The judgment of Justice French in the Federal Court is a powerful precedent for Nominet and domain name registries worldwide. The Court has confirmed and enforced Nominet's copyright in the .uk Register and WHOIS database. The existence of these rights allows Nominet to prevent information on its databases being inappropriately used by third parties and reinforces Nominet's authority to impose terms and conditions on the use of the data it holds.

"We are delighted by this result, particularly as it upholds our ability to protect information relating to .uk registrants," said Nominet Managing Director, Lesley Cowley. "Naturally, we want to control use of the intellectual property that we hold and to have succeeded in protecting our copyright ownership is a significant outcome for us, the industry globally and for registrants who do not want to receive scam notices. By fighting, and winning, this case we are saying very clearly that scamming is a serious industry issue which will not be tolerated and anyone caught doing it will be pursued and brought to justice."

Nominet will continue to pursue Mr Rafferty, Mr Norrish and the companies for costs and damages and will also seek additional damages for the flagrancy and extent of the copyright infringement. Nominet has issued advice to registrants receiving invoices in relation to domain names to carefully check their authenticity and, if in any doubt, contact their Internet Service Provider or Nominet for advice.