

ADMINISTRATIVE PANEL DECISION

BARCLAYS BANK PLC v. OBU SERVICES, GRACE THOMPSON Case No. D2023-3592

1. The Parties

The Complainant is BARCLAYS BANK PLC, United Kingdom, represented by Bird & Bird LLP, United Kingdom.

The Respondent is OBU SERVICES, Grace Thompson, United Kingdom (the “UK”).

2. The Domain Name(s) and Registrar(s)

The disputed domain name(s) <bacrlays.com> is registered with NameSilo, LLC. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 25, 2023. On August 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 28, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name(s) which differed from the named Respondent (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 1, 2023, 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 on September 4, 2023.

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 of the Complaint, and the proceedings commenced on September 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 2, 2023.

The Center appointed Aaron Newell as the sole panelist in this matter on October 16, 2023. 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 provided evidence that the disputed domain name has resolved to a website featuring the text "Welcome to the home of bacrlays.com. To change this page, upload your website into the public_html directory. Date created: Wed Jun 28 10:44:50 2023." An image composed of two blue-coloured arrow devices features in the centre of the page.

The Respondent did not file any submissions and did not engage in the proceedings.

The disputed domain name was registered June 28, 2023. At the time of writing, the disputed domain name leads to a PPC website.

5. Parties' Contentions

A. Complainant

The Complainant asserts that:

- i) it is a wholly owned subsidiary of Barclays PLC, one of the most well-known banking institutions in the UK and the owner of, *inter alia*, UK Trade Mark Registration no UK00002461096 for BARCLAYS (registered January 11, 2008) covering a variety of financial services in Class 36 ("the Registration");
- ii) it is responsible for Barclays PLC's investment banking, corporate, private and overseas services operations and is licensee of the Registration which it uses in respect of these services;
- iii) it has approximately 48 million customers across over 50 countries and territories;
- iv) it is the licensee of a number of trade mark registrations for the word BARCLAYS, that these registrations are owned by its parent company Barclays PLC, and that the disputed domain name is confusingly similar to these registrations;
- v) given the inversion of the letters "r" and "c", the disputed domain name is an example of typosquatting, (being the practice of registering a domain name that consists of a common, obvious, or intentional misspelling of a trade mark, often with the purpose of taking advantage of internet users who mistype the relevant trade mark, per WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9);
- vi) the Respondent does not "hold any trade marks or other intellectual property rights in any of the Complainant's Trade Marks", that the disputed domain name is inherently confusing because internet users would access the disputed domain name in the expectation of locating the Complainant or a party authorised by or connected to the Complainant, that the disputed domain name causes serious reputational and financial risk to the Complainant and the Complainant's customers, and that there is no clear legitimate use to which the disputed domain name could be put;
- vii) for the reasons at v) and vi) above the Respondent has no rights or legitimate interest in respect of the disputed domain name;
- viii) the Respondent registered the disputed domain name incorporating a misspelling of the trade mark BARCLAYS with the intention of deceiving customers and/or taking unfair advantage of the Complainant's reputation;

- ix) there are active MX and SPF records at the disputed domain name, indicating that the disputed domain name can be used to send and receive emails;
- x) the disputed domain name creates or is intended to create user confusion;
- xi) given the reputation of the trade mark BARCLAYS, the Respondent must have been aware that in registering the disputed domain name it was misappropriating the valuable intellectual property of the Complainant's trade mark rights;
- xii) the Respondent has also registered the disputed domain name
 - a) to prevent the Complainant from registering a domain name which corresponds to the Complainant's trade mark rights, per paragraph 4(b)(ii) of the Policy;
 - b) to intentionally attract, for commercial gain, internet users to the disputed domain name by creating a likelihood of confusion with the Complainant's trade mark rights, per paragraph 4(b)(iv) of the Policy;
- xiii) the Respondent will never be capable of using the disputed domain name for a legitimate purpose in light of the Complainant's notoriety in the trade mark BARCLAYS;
- xiv) for the reasons at viii) through xiii) above, the Respondent has registered and used the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy requires that the Complainant prove:

- i) the disputed domain name registered by the Respondent is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights; and
- ii) the Respondent has no rights or legitimate interests with respect to the disputed domain name; and
- iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant asserts and provides a statement of truth confirming that it is the subsidiary of Barclays PLC. The relationship is a matter of public record.

As the subsidiary of Barclays PLC, the Complainant is entitled to rely on trade mark rights owned by Barclays PLC to establish its standing in the proceedings, including the Registration noted above.

In this regard, [WIPO Overview 3.0](#), section 1.4 sets out as follows:

1.4 Does a trademark owner's affiliate or licensee have standing to file a UDRP complaint?

1.4.1 A trademark owner's affiliate such as a subsidiary of a parent or of a holding company, or an exclusive trademark licensee, is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint.

Accordingly, the remaining question is whether the disputed domain name is identical or confusingly similar to the BARCLAYS mark. The Panel considers that it is: the disputed domain name contains the term “bacrlays” which the Panel considers is a typo-variant of the BARCLAYS mark. The respective terms “bacrlays” and BACRLAYS differ only in respect of the placement of the letters “c” and “r”.

On this basis, the Panel finds that the Complainant satisfies the first requirement.

B. Rights or Legitimate Interests

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving that a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent.

As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

By way of its assertions outlined above in section 5, the Complainant has made out a *prima facie* case that the Respondent does not have rights and/or legitimate interests in the disputed domain name.

The Respondent did not respond, and therefore has done nothing to challenge the Complainant’s assertions.

Accordingly, there is no basis on which the Panel can find that the Respondent has any rights or legitimate interests in the disputed domain name.

The Complainant has therefore met the second requirement.

C. Registered and Used in Bad Faith

The Panel finds that the Complainant is part of a group of companies that provide financial services under the name BARCLAYS, that this group includes Barclays PLC, that the BARCLAYS trade mark is used by different companies within the group in respect of different but affiliated services, and that the BARCLAYS trade mark as used by members of this group is well-known at least in respect of banking and related financial services. It is common knowledge in the UK that Barclays Bank is one of the most prevalent high street banks in the country.

[WIPO Overview 3.0](#) section 3.1.4 sets out as follows:

“Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.”

The Panel considers this to be the circumstances of the present case. The Respondent has registered the disputed domain name for which the only obviously-conceivable use is as a misleading typo-variant of the Complainant’s widely-known BARCLAYS trade mark. In addition, the Respondent appears to have activated the disputed domain name for use to send and receive emails. The Complainant has alleged that the Respondent has no rights and/or legitimate interests in the disputed domain name and the Respondent has not refuted these or any other allegations made by the Complainant. On this basis, and with regard to [WIPO Overview 3.0](#) section 3.1.4, the Panel finds that a presumption of bad faith use and registration has been raised. In particular, it finds that on the balance of probabilities the Respondent has registered and used the disputed domain name to attempt to deliberately mislead internet users as to the source of the disputed domain name (including any emails that might emanate from it) and/or to redirect Internet users away from the Complainant’s website and to the website of the Respondent.

As noted above, the Respondent has not engaged in the proceedings. It has therefore not rebutted the presumption of bad faith use and registration.

The Complainant has accordingly satisfied the third requirement.

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 <baclays.com> be transferred to the Complainant.

/Aaron Newell/

Aaron Newell

Sole Panelist

Date: November 14, 2023