

## **ADMINISTRATIVE PANEL DECISION**

**Barclays Bank Plc v. walter, walter ruth / walterruth ruth, expert-trading /  
Nazar Pletniov**

**Case No. D2022-3265**

### **1. The Parties**

The Complainant is Barclays Bank Plc, United Kingdom, represented by Bird & Bird LLP, United Kingdom.

The Respondent is walter, walter ruth, Nigeria / walterruth ruth, expert-trading, United Kingdom / Nazar Pletniov, Ukraine.

### **2. The Domain Names and Registrars**

The disputed domain names <barclay-invest.info> and <barclay-investment.ltd> are registered with NameSilo, LLC, and the disputed domain name <barclays-invest.ltd> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrars”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 1, 2022. On September 2, 2022, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain name. On September 3, and September 9, 2022, the Registrars transmitted by email to the Center their verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (REDACTED FOR PRIVACY, See PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 14, 2022, providing the registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on September 26, 2022.

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 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 18, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 3, 2022.

The Center appointed Miguel B. O'Farrell as the sole panelist in this matter on November 10, 2022. 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. Complaint Consolidation Against Multiple Respondents.**

The Complainant has requested that the disputed domain names (i) <barclay-invest.info> registered on June 23, 2022, (ii) <barclay-investment.ltd> registered on May 21, 2022, and (iii) <barclays-invest.ltd> registered on May 3, 2022, be dealt with together in this proceeding because of the similarities in their URLs, the fact that the content of the websites for two of the disputed domain names (<barclay-investment.ltd> and <barclays-invest.ltd>) are similar to the point of bordering on identical, the fact that two of the disputed domain names (<barclay-investment.ltd> and <barclays-invest.ltd>) have been registered with the same name "walter ruth" within their registrant details, and that two of the disputed domain names (<barclay-invest.info> and <barclay-investment.ltd>) have the same Registrar. The Panel also notes that two of the disputed domain names (<barclay-invest.info> and <barclay-investment.ltd>) include an identical misspelling of the Complainant's trademark BARCLAYS (the omission of the letter "s") and both include a similar words ("invest" and "investment").

In light of the undisputed arguments of the Complainant, the similarity of the disputed domain names, the closeness in time in which they were registered, the Panel is inclined to consider that more likely than not the three disputed domain names are subject to a common control.

In addition to bringing efficiency to this administrative proceeding, the requested consolidation in the Panel's view seems fair and equitable to all the Parties, particularly since the Respondent has not raised any objection thereto, despite having had the opportunity to do so.

Thus, in accordance with section 4.11.2 of WIPO Overview of Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the Panel accepts the requested consolidation for the disputed domain names to be dealt with together in this administrative proceeding.

#### **5. Further Procedural Considerations**

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding take place with due expedition.

Noting that the disclosed location for one of the disputed domain names appears to be in Ukraine, which is subject to an international conflict at the date of this decision that may impact case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue.

Having considered all the circumstances of the case, including the Panel's acceptance of the Complainant's consolidation request, the Panel is of the view that it should. Further to the Rules, the Center transmitted the Written Notice of the Complaint and sent the Notification of Complaint by email to the Respondent. There is no evidence that the case notification email to the Respondent was not successfully delivered.

The Panel also notes that the Complainant has specified in the Complaint that any challenge made by the Respondent to any decision to transfer or cancel the disputed domain names shall be referred to the jurisdiction of the courts at the location of the principal office of the concerned registrar. In this case, the principal office of the Registrar, NameSilo, LLC, is in Phoenix, United States of America, and the principal office of the Registrar, PDR Ltd. d/b/a PublicDomainRegistry.com, is in Mumbai, India.

It is moreover noted that, for the reasons which are set out later in this decision, the Panel has no serious doubt (albeit in the absence of any Response) that the Respondent registered and has used the disputed domain names in bad faith and with the intention of unfairly targeting the Complainant's goodwill in its trademark.

The Panel concludes that the Parties have been given a fair opportunity to present their case, and so that the administrative proceeding takes place with due expedition the Panel will proceed to a decision accordingly.

## **6. Factual Background**

The Complainant is the wholly owned subsidiary of the British multinational Barclays PLC, one of the world's largest providers of financial services with operations in retail, wholesale and investment banking, as well as wealth management, mortgage lending and credit cards. The Complainant is responsible for Barclays PLC's investment banking, corporate, private, and overseas operations (among others).

The Complainant's parent company Barclays PLC owns numerous trademark registrations throughout the world for or containing BARKLEYS, covering a variety of financial services, including investment services, such as the following:

United Kingdom Trademark Registration No. 00002461096 BARCLAYS, registered on January 11, 2008, in Class 36;

European Union Trade Mark Registration No. 002315554 BARCLAYS, registered on February 13, 2003, in Class 36;

European Union Trade Mark Registration No. 000055236 BARCLAYS, registered on January 26, 1999, in Class 36;

United Kingdom Trade Mark Registration No. 00002431368 BARCLAYS INVESTMENT PARTNERS, registered on March 2, 2007, in Class 36;

The Complainant operates the webpage "[www.barkleys.co.uk/investments/](http://www.barkleys.co.uk/investments/)" to offer investment services.

Two of the disputed domain names (<barclay-investment.ltd> and <barclays-invest.ltd>) resolve to pages that offer financial services, while one of the disputed domain names (<barclay-invest.info>) does not resolve to an active webpage.

## **7. Parties' Contentions**

### **A. Complainant**

The Complainant claims to have substantial worldwide reputation for banking and financial services including investment services (both overseas and in the United Kingdom) as it has operations in over 50 countries and with approximately 48 million customers.

The Complainant is the licensee of numerous registered trademarks in a range of classes throughout the world containing or incorporating BARCLAYS.

The Complainant claims that the disputed domain names are confusingly similar with the trademark BARCLAYS in which the Complainant has rights and that the Respondent has no rights or legitimate interests in the disputed domain names, which were registered and are being used in bad faith.

To the best of the Complainant's knowledge, the Respondent is not known by the disputed domain names nor holds any trademark or other intellectual property rights in any of the Complainant's marks.

The fact that the websites associated with two of the disputed domain names purportedly offer investment services to customers confuses consumers into thinking that the disputed domain names are registered to, operated or authorised by, or otherwise connected with the Complainant. This confusion is enhanced by the fact that the disputed domain names fraudulently list the Complainant's official address on the disputed domain names under its contact details.

Furthermore, despite one of the disputed domain names not resolving to a functioning website it (as well as the other two disputed domain names) potentially has an email address linked to it therefore the Complainant is concerned that it is being used for fraudulent purposes (for example fishing purposes leading to potential financial or personal information losses) causing significant damage to Complainant's business and reputation.

The disputed domain names can only have been chosen to intentionally attract, for some kind of commercial gain, users to the websites by creating likelihood of confusion with the Complainant's trademarks and/or website.

The Respondent's use of the disputed domain names would, at the very least, cause initial interest confusion because a user of the website, based on the disputed domain names alone, will be visiting the websites in the expectation that they are the official website of the Complainant (irrespective of whether the user is subsequently disabused of that notion or not).

Finally, the Complainant requests the Panel to issue a decision ordering that the disputed domain names be transferred to the Complainant.

## **B. Respondent**

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

## **8. Discussion and Findings**

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain names, the Complainant must prove each of the following, namely that:

- (i) the disputed domain names are identical or confusingly similar with a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names were registered and are being used in bad faith.

### **A. Identical or Confusingly Similar**

In accordance with section 1.4.1 of [WIPO Overview 3.0](#), as the Complainant is the wholly owned subsidiary of the parent company Barclays PLC that is the owner of the BARCLAYS trademark registrations mentioned in paragraph 4 above (Factual Background), the Panel considers that the Complainant has standing to bring this UDRP proceeding.

As set forth in section 1.7 of WIPO Overview 3.0 the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain names are confusingly similar with the BARCLAYS trademark.

The disputed domain names incorporate the Complainant's trademark BARCLAYS (with or without the letter "s") and the words "invest" or "investment" with a hyphen "-" separating the two words from the Complainant's trademark, which does not prevent a finding of confusing similarity under the first element.

The generic Top-Level Domains ("gTLDs") ".info" and ".ltd" are viewed as a standard registration requirement and are generally disregarded under the first element confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

The Panel finds that the disputed domain names are confusingly similar to the trademark BARCLAYS in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy are fulfilled.

## **B. Rights or Legitimate Interests**

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following non-exclusive defenses:

- (i) before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain, to misleadingly divert consumers.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established, as it is put in section 2.1 of [WIPO Overview 3.0](#), that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain names, enabling the Respondent to establish rights or legitimate interests therein.

Furthermore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other circumstances to suggest that the Respondent has rights or legitimate interests in the disputed domain names.

Likewise, and as further discussed under section 8.C of this decision, it does not seem that the Respondent is making any legitimate noncommercial or fair use of the disputed domain names, but rather that the Respondent intends to use the disputed domain names for the purpose of deriving unfair monetary advantage by confusing Internet users and leading them to believe that the site to which the disputed domain names relate are an official site of the Complainant.

As established in section 2.5 of [WIPO Overview 3.0](#): "Fundamentally, a respondent's use of a domain name will not be considered 'fair' if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant's mark is often central to this inquiry." Here, the nature of the disputed domain names carries a risk of implied affiliation. The Panel finds that the subtle misspelling of the Complainant's mark in two of the disputed domain names (the omission of the letter "s") can also impersonate the Complainant, as there is a risk that Internet users will not notice the difference between such misspelling and the Complainant's BARCLAYS mark.

Moreover, two of the disputed domain names fraudulently list the Complainant's official address on the website under its contact details. Use of a disputed domain name for impersonation can never confer rights or legitimate interests to a respondent.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name.

The Panel finds that the requirements of paragraph 4(a)(ii) of the Policy are fulfilled.

### **C. Registered and Used in Bad Faith**

The Panel is satisfied that the Respondent must have been aware of the Complainant and the trademark BARCLAYS mentioned in paragraph 4 above (Factual Background) when registering the disputed domain names.

In accordance with section 3.1.4 of [WIPO Overview 3.0](#), the Panel considers that the inclusion of the well-known trademark BARCLAYS in the disputed domain names create a presumption of bad faith.

The Complainant has submitted evidence to support that the trademark BARCLAYS mentioned in paragraph 4 above is widely known and was registered and used many years before the Respondent registered the disputed domain names. The Respondent when registering the disputed domain names has targeted the Complainant's trademarks with the intention to confuse Internet users and capitalize on the fame of the Complainant's name and trademark.

The clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain names is also a significant factor to consider that the disputed domain names were registered in bad faith (as stated in section 3.2.1 of [WIPO Overview 3.0](#)).

The Respondent has registered and used two of the disputed domain names to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademark BARCLAYS. Furthermore, given that the use of a disputed domain name to impersonate the complainant (in this case, fraudulently listing the Complainant's official address on the website under its contact details) can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith.

Pursuant to section 3.3 of [WIPO Overview 3.0](#), the fact that one of the disputed domain names does not resolve to an active website does not prevent a finding of bad faith under the doctrine of passive holding. See also *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

The Panel finds that the Respondent has registered and used the disputed domain names in bad faith.

## **9. 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 names, <barclay-invest.info>, <barclay-investment.ltd> and <barclays-invest.ltd> be transferred to the Complainant.

*/Miguel B. O'Farrell/*

**Miguel B. O'Farrell**

Sole Panelist

Date: November 18, 2022