

ADMINISTRATIVE PANEL DECISION

Paula Bublay Management Board Member, Buenro OÜ v. Walter Naeslund
Case No. D2023-2666

1. The Parties

The Complainant is Paula Bublay Management Board Member, Buenro OÜ, Estonia, internally represented.

The Respondent is Walter Naeslund, Sweden.

2. The Domain Name and Registrar

The disputed domain name <buenro.com> is registered with Ascio Technologies Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 19, 2023. On June 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Karl Johan Walter Naeslund) and contact information in the Complaint.

The Center sent an email communication to the Complainant on June 22, 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 amendment to the Complaint on June 27, 2023.

The Center verified that the Complaint together with the amendment to the 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 June 29, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 19, 2023. The Response was filed with the Center on July 18, 2023. Each party submitted a supplemental filing on July 19, 2023.

The Center appointed Adam Taylor as the sole panelist in this matter on July 22, 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.

On August 3, 2023, the Panel issued Procedural Order No. 1 (“PO1”) inviting the Respondent and the Complainant to supply certain information by August 10, and 16, 2023, respectively. PO1 is summarised in section 6D below. The Respondent and the Complainant made submissions on August 14, and 16, 2023, respectively. Both parties made a number of unsolicited supplemental filings on August 17, and 18, 2023.

4. Factual Background

The Complainant is named as “Paula Bublly Management Board Member, Buenro OÜ”.

Buenro OÜ (“the Company”), which is incorporated in Estonia, carries on the business of “a digital platform as a service enabling a global network of friends, shared homes, and experiences for remote workers”.

The Respondent is a brand developer, who resides in Sweden.

The following are some key aspects of the relationship between the Complainant, the Respondent and the Company, and of the history of the disputed domain name, based on the information before the Panel.

The Respondent registered the disputed domain name on June 6, 2022 through the Registrar.

On August 12, 2022, the Respondent entered into a shareholders’ agreement with the shareholders of the Company, and, at around that time, the Respondent became a board member of, and shareholder in, the Company.

The Company owns European Union trade mark No. 018748712 for BUENRO, filed on August 13, 2022, registered on November 26, 2022, in classes 9, 25, 35, 36, 38, 39, 41, 42, 43, and 45.

On or around September 7, 2022, the Respondent forwarded an email to the Complainant confirming transfer of the disputed domain name to a new registrar, Google Domains. Apparently, the Company thereby became the registrant of the disputed domain name, although the Panel has not seen proof of this.

In December 2022 / January 2023, the Complainant removed the Respondent from the board of the Company and the Respondent’s shares were returned to the Company. The parties disagree as to the extent to which the latter step was a voluntary act of the Respondent.

On an unspecified date after the Respondent became aware of his proposed removal from the board of the Company, the Respondent transferred the disputed domain name back to the Registrar and into his own name.

The record shows that the disputed domain has resolved to an inactive site.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for transfer of the disputed domain name.

Notably, the Complainant contends as follows:

- The Respondent was never engaged to develop a brand for the Company, only to become a shareholder and business partner.
- The Company never agreed to pay any branding fees to the Respondent.
- The Complainant and the Respondent worked jointly on branding, and intellectual property matters. The Complainant asked the Respondent to register the disputed domain name under his name for convenience, but for the benefit of the Company, of which he was due to become a shareholder.
- The Respondent did not create or own any brand or trade mark for BUENRO.
- The Respondent committed to transfer the disputed domain name to the Company after the minimum three-month holding period specified by Google Domains, and duly did so.
- The Company paid all Google Domains invoices relating to the disputed domain name.
- The Respondent was legitimately removed from the board, and he voluntarily returned his shares. His reinstatement is not “pending”, and he was never awarded a “permanent” seat.
- The Respondent “inappropriately seized” the disputed domain name, thereby disrupting the Company’s operations, and he has refused to return it to the Complainant despite lacking any legitimate interest therein.
- The Respondent breached his fiduciary and other obligations by transferring the disputed domain name to himself while still a board member and shareholder.

B. Respondent

The Respondent denies that the Complainant has satisfied each of the elements required under the Policy for transfer of the disputed domain name.

Notably, the Respondent contends as follows:

- The Respondent is a professional, well-known, and respected brand developer who has developed some of Sweden’s most recognised brands.
- The Complainant engaged the Respondent to develop a new brand for the Company, then called “Cambra”. The name change to “Buenro OÜ” resulted from the Respondent’s development work. The Respondent was awarded a permanent board seat, and shares in the Company in exchange for this and other services.
- The Respondent routinely develops brands in advance without a specific client or project in mind and registers the relevant domain names to secure the availability for a future client; this is different to “cybersquatting”. These are trade marks created as part of a long-established legitimate business practice. The BUENRO brand was such a pre-developed brand – as evidenced by the fact that the disputed domain name was registered more than two months before the shareholders’ agreement was signed.
- A considerable amount of time and effort goes into creating a brand like “Buenro”; the Respondent’s fee is generally between EUR 60,000 and 120,000. In the rare event that a client does not pay, the rights to the work are not transferred to the client, the brand returns to the inventory and can be proposed to another client.

- The shareholder's agreement is the only document that could potentially give the Complainant and the Company the rights to use the brand BUENRO or any other work produced by the Respondent. That agreement has been breached, as it states that Walter Naeslund should be a permanent board member without any exceptions, whereas the Complainant has since unilaterally removed the Respondent from the board. That breach was equivalent to not paying an agreed-upon invoice. Any rights to work developed by the Respondent were thereby "forfeited" pending reinstatement of his seat and return of his shares.
- Even if that were not the case, there was nothing in the shareholders' agreement or any other document stating that the Respondent should give away any of his previously-owned intellectual property free of charge. The disputed domain name has been the Respondent's property since it was registered on June 12, 2022, and has never been gifted to anyone, which is also why there is no documentation to that effect.
- The Complainant has continued to use the BUENO brand in breach of the shareholders' agreement, and to falsely claim rights in the disputed domain name.

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

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

A. Supplemental Filings

Both parties have made unsolicited supplemental filings, as mentioned in section 3 above.

Paragraph 10 of the UDRP Rules vests the panel with the authority to determine the admissibility, relevance, materiality and weight of the evidence, and also to conduct the proceedings with due expedition.

The Panel has decided to admit both parties' respective supplemental filings of July 19, 2023, because they assist the Panel in elucidating the parties' respective positions. They are incorporated into the parties' contentions in section 5 above.

The Panel declines to admit the Respondent's submission of August 14, 2023, in response to PO1, as this was filed four days late and the Respondent has not demonstrated that there were any exceptional circumstances justifying the late filing. In any case, even if this filing had been admitted, it would have made no difference to the outcome of this case, for the reasons explained in section 6D below.

The Panel allows the Complainant's submission in response to PO1 (except insofar as it addresses the Respondent's disallowed submission), and noting that it was filed one minute late. The Complainant's contentions therein, insofar as the Panel considers them relevant, are referred to in section 6D below.

Finally, the Panel rejects both parties' subsequent unsolicited filings, which add nothing of relevance.

B. Identical or Confusingly Similar

First, the Panel notes that the Complaint has been filed in the name of "Paula Bublay Management Board Member, Buenro OÜ", whereas the trade mark mentioned in section 3 above is owned by the Company. However, given that Paula Bublay is the founder and controller of the Company, and in the absence of any specific objection from the Respondent on this point, the Panel considers that she should be treated as having rights in the trade mark for the purposes of standing to file this Complaint. See section 1.4.1 of the

WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). References to "the Complainant" below should be treated as including the Company, unless otherwise stated.

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the first element of the Policy has been established.

C. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognised that proving 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. [WIPO Overview 3.0](#), section 2.1.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.
- the Respondent (as an individual, business, or other organisation) has not been commonly known by the disputed domain name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.
- the Respondent is not making a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the disputed domain name.

For reasons explained in section 6D below, the Panel does not consider that the Respondent has established that the circumstances of the Respondent's original registration of the disputed domain name, or the relationship between the parties, constitute rights or legitimate interests on the part of the Respondent in respect of the disputed domain name.

Based on the available record, the Panel finds the second element of the Policy has been established.

D. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The gist of the Respondent's position is that: acting as a brand developer, the Respondent had registered the disputed domain name as a "pre-developed" brand; that the (then differently-named) Company engaged him to create a new brand for the Company; that the Complainant's adoption of the BUENRO brand resulted from the Respondent's development work; that the Respondent was awarded a board seat and shares in return for this work and that, by unilaterally removing the Respondent from board in breach of the shareholders' agreement, pending the Respondent's reinstatement, the Complainant forfeited any rights any rights to use work developed by the Respondent, and the Respondent was thereby was entitled to retake ownership of the disputed domain name.

The Complainant disputes all of the Respondent's contentions including that the Respondent was engaged to develop a brand for the Complainant. Instead, the Complainant maintains that the Respondent registered the disputed domain name in the Respondent's own name for convenience at the request, and for the benefit of, the Company; that the Respondent duly transferred the disputed domain name to the Company, but later "inappropriately seized" the disputed domain name following the Respondent's justified removal from the board, the Respondent's position on which was unrelated to any branding development work; and that the Respondent refused to return the disputed domain name to the Company, thereby disrupting its operations.

The Panel duly issued PO1 which, amongst other things:

- invited the parties to provide dated evidence regarding the circumstances in which the Respondent registered the disputed domain name; and
- invited the parties to provide dated evidence in connection with the Respondent's assertion that his receipt of a board seat and shares was linked to the Respondent's alleged brand development services.

As mentioned in section 6A above, the Respondent's submission in response to PO1 was out of time, and the Panel has declined to accept it. In any case, for the most part, the Respondent's filing failed to address the queries raised by the Panel, and the submission did not include a single item of supporting evidence despite the Panel's specific requests therefor.

Whereas the Complainant's response to PO1 included, notably, the following documents:

- a screenshot of the Complainant's Spotify playlist entitled "buenro", which included music added on April 30, 2021;
- a collaborative branding document to which the Complainant had added the name "Buenro" on April 14, 2022, at 8:32 PM, describing the word's inspiration as "Good vibes in Spanish, short for buen rollo";
- a message from the Respondent to the Complainant on May 14, 2022, stating "I'm really honored that you're considering me as a partner by the way. Hope you feel that. I have always had a hard time feeling that I'm good enough but have somehow pushed through anyway. Still feel that way"; and
- messages from the Respondent to the Complainant on June 6, 2022, stating: "Holy s***! I just registered buenro.com. Wasn't that the name of your good vibes playlist?" and "Not sure if it's too Spanish or even what it means but I figured that domain needed a home anyway".

The above documents, and others supplied by the Complainant, strongly support the Complainant's contentions in the Complaint, and the Complainant's response to PO1, that: it was the Complainant, not the Respondent, who first conceived the brand name BUENRO, that the Respondent's involvement with branding arose only out his personal (formerly romantic) relationship with the Complainant rather than the supply of any brand development services to the Complainant; that the Respondent registered the disputed

domain name at the specific request, and on behalf, of the Complainant, *i.e.*, it was not a “pre-developed” brand; and that the Complainant’s offer to enter into a business partnership with the Respondent was unconnected with any branding services provided by the Respondent.

The Panel is not of course in a position to adjudicate on the alleged breach by the Complainant of the shareholders’ agreement, or on the legitimacy or otherwise of the removal of the Respondent’s board seat or shareholding.

However, whatever the rights or wrongs of the Respondent’s removal, the Respondent has not demonstrated that this business dispute provided a basis for the Respondent to unilaterally retake ownership of the disputed domain name in the context of the Respondent’s threatened/actual removal from the Company. On the contrary, the key factual assertions underpinning the Respondent’s claimed entitlement to the disputed domain name have all been shown to be false – namely, that the disputed domain name was conceived and registered by the Respondent independently of the Company; that the Respondent was engaged to provide brand development services to the Company; and that the Respondent’s board position and shares were awarded in respect of such services.

In these circumstances, the Panel considers that the Respondent’s unauthorised re-transfer of the disputed domain name from the Company to the Respondent on an unspecified date, but in the context of the Respondent’s removal of the Company, and the Respondent’s subsequent refusal to return the disputed domain name to the Company, supported by the Respondent’s demonstrably false assertions, constitute registration and use of the disputed domain name in bad faith.

Based on the available record, the Panel finds the third element of the Policy has been established.

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, <buenro.com>, be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: September 6, 2023