

ADMINISTRATIVE PANEL DECISION

Barclays Bank UK PLC v. 杨智超 (Zhi Chao Yang)
Case No. D2023-3590

1. The Parties

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

The Respondent is 杨智超 (Zhi Chao Yang), China.

2. The Domain Name and Registrar

The disputed domain name <barclzys.com> is registered with Cloud Yuqu LLC (the “Registrar”).

3. Procedural History

The Complaint was filed in English 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 29, 2023, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 29, 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 in English on August 30, 2023.

On August 29, 2023, the Center sent another email communication in Chinese and English to the Parties regarding the language of the proceeding. On August 30, 2023, the Complainant requested that English be the language of the proceeding. The Respondent did not submit any response to the Complainant’s submission.

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 in English and Chinese 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 Joseph Simone as the sole panelist in this matter on October 11, 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, Barclays Bank UK PLC, is a wholly-owned subsidiary of Barclays PLC, a British multinational banking and financial services company headquartered in London and one of the world's largest financial services providers with operations in retail, wholesale and investment banking, as well as wealth management, mortgage lending and credit cards.

The Complainant has an extensive global portfolio of trademarks, including the following:

- European Union Trade Mark Registration No. 002315554 for BARCLAYS in Classes 9, 16, 35, 36, 38, and 42 registered on February 13, 2003;
- European Union Trade Mark Registration No. 000055236 for BARCLAYS in Classes 9, 16, 35, 36, and 42 registered on January 26, 1999;
- United Kingdom Trade Mark Registration No. UK00900055236 for BARCLAYS in Classes 9, 16, 35, 36, and 42 registered on January 26, 1999;
- United Kingdom Trade Mark Registration No. UK00002461096 for BARCLAYS in Class 36 registered on January 11, 2008;
- United Kingdom Trade Mark Registration No. UK00001286579 for BARCLAY/BARCLAYS in Class 36 registered on March 3, 1989.

The disputed domain name was registered on March 29, 2023.

The Complainant's evidence indicates that at the time of filing of the Complaint, the disputed domain name resolved to a pay-per-click site. At the time of this decision, the disputed domain name continues to resolve to a pay-per-click site.

5. Parties' Contentions

A. Complainant

The Complainant asserts that it has prior rights in the BARCLAYS trade mark and that it has acquired a strong reputation in its field of business.

The Complainant further notes that the disputed domain name registered by the Respondent is confusingly similar to the Complainant's BARCLAYS trade mark.

The Complainant asserts that it has not authorized the Respondent to use its BARCLAYS trade mark, and there is no evidence to suggest that the Respondent has used or undertaken any demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services.

The Complainant further asserts that, considering the evidence, it is implausible that the Respondent registered the disputed domain name in good faith, and that any use of the disputed domain name must be in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceeding

In accordance with paragraph 11(a) of the Rules:

"[...] the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding."

In this case, the language of the Registration Agreement for the disputed domain name is Chinese. Hence, the default language of the proceeding should be Chinese.

However, the Complainant filed the Complaint in English and requested that English be the language of the proceeding for the following main reasons:

- The disputed domain name is made up of Latin characters;
- The language of the contents on the pay-per-click webpage under the disputed domain name is completely in English;
- The Complainant is not in a position to conduct these proceedings in Chinese without significant additional expense and delay due to the need to arrange for the translation of the Complaint and the supporting evidence.

The Respondent was notified in both Chinese and English of the language of the proceeding and the commencement of the proceeding and did not comment on the language of the proceeding or submit any response in either Chinese or English.

Considering the circumstances of this case, the Panel determines that the language of the proceeding shall be English, and as such, the Panel has issued this decision in English. The Panel further finds that such determination should not create any prejudice to either Party and should ensure that the proceeding takes place with due expedition.

6.2. Substantive Issues

A. Identical or Confusingly Similar

The Panel acknowledges that the Complainant has established rights in the BARCLAYS trade marks.

The disputed domain name incorporates the Complainant's trade mark BARCLAYS in its entirety but replacing the letter "a" with "z". Section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") makes clear that a domain name which consists of a common, obvious, or intentional misspelling of a trade mark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. The Panel considers that the disputed domain name is an obvious misspelling of the Complainant's trade marks as it only swaps the letter "a" with "z" but is otherwise highly similar to the Complainant's trade marks.

The Panel therefore finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its rights in the BARCLAYS trade marks and in demonstrating that the disputed domain name is confusingly similar to its marks.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, the complainant is required to make a *prima facie* case that the respondent lacks rights or legitimate interests in a domain name. Once a *prima facie* case is made out, the respondent carries the burden of producing evidence in support of its rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant can be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See [WIPO Overview 3.0](#), section 2.1.

The Complainant asserts that it has not authorized the Respondent to use its trade marks and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services.

Thus, the Complainant has satisfactorily established a *prima facie* case.

At the time of filing of the Complaint, the disputed domain name resolved to a pay-per-click site.

The Respondent did not file a response and has therefore failed to assert factors or put forth evidence to establish that he enjoys rights or legitimate interests in the disputed domain name. As such, the Panel concludes that the Respondent has failed to rebut the Complainant's *prima facie* showing of the Respondent's lack of rights or legitimate interests in the disputed domain name, and that none of the circumstances of paragraph 4(c) of the Policy is applicable in this case.

Accordingly, and based on the Panel's findings below, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that any of the following circumstances in particular, but without limitation, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trade mark or service mark) or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent is using the domain name to intentionally attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances in which bad faith may be found. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). The overriding objective of the Policy is to curb the abusive registration of domain name in circumstances where the registrant seeks to profit from and exploit the trade mark of another party. See *Match.com, LP v. Bill Zag and NWLAWS.ORG*, WIPO Case No. [D2004-0230](#).

For reasons discussed under this and the preceding heading, the Panel believes that the Respondent's conduct in this case constitutes bad faith registration and use of the disputed domain name.

When the Respondent registered the disputed domain name, the BARCLAYS trade marks were already widely known and directly associated with the Complainant's activities. UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names comprising typos) to a famous or widely known trade mark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Given the extensive prior use and fame of the Complainant's marks, in the Panel's view, the Respondent should have been aware of the Complainant's marks when registering the disputed domain name.

In addition, the disputed domain name consists of an obvious typosquatting variation of the Complainant's mark BARCLAYS. The website connected to the disputed domain name also includes references to the Complainant's exact trademark BARCLAYS and includes other language indicating its relevance to banking services. Further, the Respondent has also provided no evidence to justify his choice of the term "barclzys" in the disputed domain name.

In light of the foregoing, it would be unreasonable to conclude that the Respondent - at the time of the registration of the disputed domain name – was unaware of the Complainant's trade marks.

The Panel is therefore of the view that the Respondent registered the disputed domain name with full knowledge of the Complainant's trade mark rights, and is using the disputed domain name to intentionally attract, for commercial gain, Internet users to his website or other online locations, by creating a likelihood of confusion with the Complainant's trade marks.

The Panel further asserts that the Respondent has been the subject of many UDRP proceedings, for example, *Utilities Employees Credit Union v. 杨智超 (Yang Zhi Chao)*, WIPO Case No. [D2021-3096](#) and *W.W. Grainger, Inc. v. 杨智超 (Yang Zhi Chao)*, WIPO Case No. [D2021-2198](#). This clearly demonstrates a systematic behavior of registering reputable trade marks in domain names by the Respondent, which is further evidence of bad faith.

Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith.

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

/Joseph Simone/

Joseph Simone

Sole Panelist

Date: October 25, 2023