

ADMINISTRATIVE PANEL DECISION

Barclays Bank UK PLC v. John duke and keen operah
Case No. D2023-3598

1. The Parties

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

The Respondents are John duke, Thailand, and keen operah, Philippines.

2. The Domain Names and Registrar

The disputed domain names <onlinebarclaybk.com> and <onlinebarclaybnk.com> are registered with Dreamscape Networks International Pte Ltd (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 names. On September 4, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Domain Administrator, Private Registry Authority) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 6, 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 6, 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 Respondents of the Complaint, and the proceedings commenced on September 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 9, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on October 20, 2023.

The Center appointed Alfred Meijboom as the sole panelist in this matter on October 26, 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 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 is responsible for Barclays PLC's retail operations, providing day-to-day products and services to 24 million individual and business customers with a turnover of less than GBP 6.5 million in the United Kingdom.

The Complainant is the licensee of different registered trademarks which contain or incorporate BARCLAY or BARCLAYS including:

- United Kingdom trademark BARCLAY, with reg.nr. UK00001286579 of March 3, 1989, for financial services in class 36;
- European Union trademark BARCLAYS, with reg. nr. 000055236 of January 26, 1999, for goods and services in classes 9, 16, 35, 36, 38, and 42; and
- European Union trademark BARCLAYS, with reg. nr. 002315554 of February 13, 2003, for goods and services in classes 9, 16, 35, 36, 38, and 42. (the "BARCLAY trademarks")

The Respondent John duke registered the disputed domain name <onlinebarclaybk.com> on June 10, 2023. The Respondent keen operah registered the disputed domain name <onlinebarclaybnk.com> on June 18, 2023. The disputed domain names resolved at the time of filing the Complaint to similar websites that prominently displayed the BARCLAY trademarks on the home page, offering a range of financial consulting services, including Internet services, taxation, risk management, loan services, estate planning, retirement planning and business planning, and providing contact information of Barclays with the tagline "Barclays is one of the world's leading financial consulting firms".

5. Parties' Contentions

A. Complainant

The Complainant alleges that the disputed domain names are confusingly similar to the BARCLAY trademarks as they comprise the string "barclay", while the addition of "online" to both disputed domain names and "bk" and "bnk" to either of the disputed domain names, which added terms doing nothing to distinguish the disputed domain names from the BARCLAY trademarks.

The Complainant also alleges that the Respondents have no rights or legitimate interests in respect of the disputed domain names. To the best of the Complainant's knowledge, the Respondents do not hold any trademarks or other intellectual property rights in "barclay". According to the Complainant Internet users who visit the websites to which the disputed domain names resolve do so in the expectation that they are official websites of the Complainant. The Complainant contends that it is clear that there is no intention to make use of the disputed domain names for a legitimate purpose as any third-party use would inevitably confuse visitors into believing the disputed domain names are registered to, operated, or authorized by, or otherwise connected with the Complainant. The Complainant considers this also to be proof of the use of the disputed domain names in bad faith.

According to the Complainant it is plain that the Respondents acquired the disputed domain names for the purpose of unfairly disrupting the business of the Complainant by deceiving customers into believing that the disputed domain names are owned by or associated with the Complainant, and leading to potential financial and personal information losses for the Complainant's customers, causing significant disruption to the Complainant, its business and its reputation. Furthermore, the Complainant alleges that the Respondents have registered and are using the disputed domain names in bad faith because they can only have been

chosen to intentionally attract, for some kind of commercial gain, users to the website by creating a likelihood of confusion with the BARCLAY trademarks and/or website. The Complainant alleges that, given the strong reputation of the BARCLAY trademarks, the Respondents must have been aware that in registering the disputed domain names they were misappropriating the valuable intellectual property of the owner of the BARCLAY trademarks.

B. Respondents

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

6. Discussion and Findings

The Respondents did not file a Response. However, as set out in section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the consensus view of UDRP panels is that a respondent's default does not automatically result in a decision in favor of the complainant. The Complainant must still establish each of the three elements required by paragraph 4(a) of the Policy. Although the Panel may draw appropriate inferences from the Respondents' default, paragraph 4 of the Policy requires the Complainant to support its assertions with actual evidence in order to succeed in these proceedings. Paragraph 14(b) of the Rules provides that, in the absence of exceptional circumstances, the Panel shall draw such inferences as it considers appropriate from a failure of a party to comply with a provision or requirement of the Rules. The Panel finds that in this case there are no such exceptional circumstances.

Under the Policy, the Complainant must prove that:

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

Before turning to these questions, however, the Panel needs to address the issue of the consolidation of multiple domain names and Respondents.

A. Consolidation of multiple domain names and Respondents

Originally the Complainant brought a Complaint against one registrant of both disputed domain names. After the Complainant received the registrar verification from the Center, it amended its Complaint by distinguishing that the disputed domain names were registered by the different Respondents, and alleging that the disputed domain names are under common control, and/or the same business or person is responsible for the registration of both disputed domain names, as it is inconceivable that the Respondents could have, entirely independently of each other, registered the disputed domain names within one week of each other and included materially identical contents on the respective websites.

Paragraph 4.11.2 of [WIPO Overview 3.0](#) explains the principles that govern the question of whether a complainant may bring a complaint against multiple respondents. According to these principles the majority view of UDRP panels is to accept consolidation of multiple respondents and domain names if (i) the domain names or the websites to which they resolve are subject to common control, and (ii) the consolidation would be fair and equitable to all parties.

In this matter, the Complainant put forward that the disputed domain names, which are nearly identical, were registered a week apart with the same registrar, both resolving to a website with the same contents, and the same contact information. The Panel is satisfied that the Complainant submitted convincing and adequate evidence showing that the disputed domain names must be under common control. As a result thereof consolidation of the Respondents is fair and equitable in absence of arguments from the Respondents. The Panel therefore allows the consolidation of the disputed domain names and the Respondents.

B. Identical or Confusingly Similar

It is well established that the generic Top-Level Domain (“gTLD”) “.com” should typically be disregarded in the assessment under paragraph 4(a)(i) of the Policy.

The Panel finds that the disputed domain names are confusingly similar to the BARCLAY trademarks. The disputed domain names incorporate the BARCLAY trademark in its entirety, and merely adds the prefix “online” and suffix “bk” and “bnk”, respectively, which does not prevent a finding of confusing similarity between the disputed domain names and the BARCLAY trademarks (see section 1.7 of the [WIPO Overview 3.0](#)).

Consequently, the first element of paragraph 4(a) of the Policy is met.

C. Rights or Legitimate Interests

The Complainant must show a *prima facie* case that the Respondents lack rights or legitimate interests in the disputed domain names, which the Respondents may rebut (e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Panel takes note of the Complainant’s various allegations and more specifically that the Respondents do not hold any rights in the term “barclay”, and no authorization has been given to the Respondents to use the BARCLAY trademark or to register the disputed domain names, and the disputed domain names resolving to website that intentionally created confusion as to the source, sponsorship, affiliation, or endorsement of the Respondents’ website. The Panel is satisfied that the Respondents must have designed and launched their websites with the intention to mislead Internet users into believing that they visited the Complainant’s official website, which does not constitute a *bona fide* offering of goods or services.

The allegations of the Complainant remain unchallenged. There is no evidence before the Panel to show that the Respondents have rights or legitimate interests in the disputed domain names.

The Panel therefore finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

D. Registered and Used in Bad Faith

The Panel is satisfied that the Respondents must have had BARCLAY trademarks in mind when they registered the disputed domain names, as the BARCLAY trademarks were already widely known and directly associated with the Complainant’s activities (e.g. *Barclays Bank PLC v. “Barclays Bank”*, WIPO Case No. [D2023-0185](#) and *Barclays Bank UK PLC v. 杨智超 (Zhi Chao Yang)*, WIPO Case No. [D2023-3590](#)), and, soon after their registration, the disputed domain names resolved to websites which prominently display the BARCLAY trademarks and give the impression that the websites belong to, or are associated with the Complainant.

Further, the Panel considers the use of the disputed domain names to resolve to websites which adopted a look and feel, and which provides information which suggests that they offer the Complainant’s financial services as an intentional attempt to attract, for commercial gain, Internet users to the Respondents’ websites, by creating a likelihood of confusion with the BARCLAY trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondents’ websites as meant in paragraph 4(b)(iv) of the Policy.

The Panel considers the Complainant's allegation that it is highly concerned that the Respondents may be using their websites for potentially fraudulent purposes credible. As the Respondents failed to offer any explanation for its conduct, the Panel is satisfied that the Complainant demonstrated that the disputed domain names have been registered and are being used in bad faith.

Consequently, the third and last element of paragraph 4(a) of the Policy is also met.

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 names <onlinebarclaybk.com> and <onlinebarclaybnk.com> be transferred to the Complainant.

/Alfred Meijboom/

Alfred Meijboom

Sole Panelist

Date: November 17, 2023