

ADMINISTRATIVE PANEL DECISION

Barrick Gold of North America, Inc., Barrick Gold Corporation v. real deploy
Case No. D2024-0062

1. The Parties

The Complainant is Barrick Gold of North America, Inc., Barrick Gold Corporation, United States of America, represented by Dorsey & Whitney, LLP, United States of America.

The Respondent is real deploy, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <barrickgoldmining.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 8, 2024. On January 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 9, 2024, the Registrar transmitted by email to the Center its verification response disclosing the 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 January 15, 2024, 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 January 16, 2024.

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 January 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 18, 2024.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on February 29, 2024. 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 Barrick Gold of North America, Inc. from the United States of America, founded in 1997, and the Co-Complainant is Barrick Gold Corporation, founded in 1983, a Canadian company.

The Complainant Barrick Gold, along with its parent, affiliates and subsidiaries, including the Co-Complainant Barrick Gold Corporation, provide gold mining operations worldwide. Collectively herein, Complainant and Co-Complainant are referred to as "Complainant."

The Complainant is the owner of several trademark rights for BARRICK and BARRICK GOLD, such as:

- Trademark Registration No. 4683358 for BARRICK GOLD, in Class 42, registered on February 10, 2015, in the United States of America.
- Trademark Registration No. 4944505 for BARRICK GOLD, in Class 37, registered on April 26, 2016, in the United States of America.
- Trademark Registration No. 6592636 for BARRICK, in Classes 37 and 42; registered on December 21, 2021 in the United States of America.

The Complainant is the owner of the domain <barrick.com>, registered on October 06, 1995. The Respondent was identified as real deploy, from Nigeria.

The disputed domain name was registered on May 22, 2023, and resolved to a website which displayed a logo on the top of the screen indicating the mark BARRICK GOLDMINING, and prompted the website visitor to input login credentials attempting to obtain website visitor's sensitive login credentials under the false pretense that it was affiliated with, endorsed by, or otherwise connected to the Complainant. Currently the disputed domain name resolves to an inactive website.

5. Parties' Contentions

A. Complainant

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

The Complainant argues that the disputed domain name <barrickgoldmining.com> is identical or confusingly similar to the trademarks BARRICK and BARRICK GOLD and the domain name owned by the Complainant, <barrick.com>.

There is no evidence that the Respondent has made demonstrable preparations to use the disputed domain name for legitimate purposes, nor is there any evidence that the Respondent is using the disputed domain name in connection with a bona fide offering of goods and services.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name. That being the case, the Complainant finds that the disputed domain name is used to take unfair advantage of the Complainant's rights for commercial gain, since Internet users and the Complainant's clients would inevitably associate the content related to the disputed domain name with the Complainant's prior trademarks.

Moreover, the Complainant stresses that the Respondent is not commonly known by the name "BARRICK" or "BARRICK GOLD."

According to the Complainant, it has prior rights over the trademarks BARRICK and BARRICK GOLD, and has not authorized the registration and use of the disputed domain name, nor the use of its trade name and trademarks by the Respondent.

The Respondent is not affiliated to or authorized by the Complainant to use or register the disputed domain name.

The Complainant's intellectual property rights for BARRICK and BARRICK GOLD trademarks predate the registration of the disputed domain name.

The Complainant also argues that the Respondent was aware of the Complainant's rights and has clearly registered the disputed domain name to target the Complainant's trademark, and that the registration of the disputed domain name was conducted in bad faith, since the disputed domain name resolved to a website with a logo on the top of the screen indicating the mark BARRICK GOLD MINING, and prompted the website visitors to input login credentials attempting to steal their sensitive login credentials under the false pretense that the website was connected to the Complainant.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to the trademarks or service marks in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of 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

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 trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

The Panel finds that the addition of the word “mining” does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. 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.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult 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 (although the burden of proof always remains on the complainant). 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.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel has held that the use of the disputed domain name for illegal activity, namely, impersonation/passing off and fraud, cannot confer rights or legitimate interests on the Respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that at the time the disputed domain name was registered, the Respondent was clearly aware of the BARRICK and BARRICK GOLD trademarks as the Complainant’s trademark registrations as well as its domain name predate the registration of the disputed domain name, and the disputed domain name entirely reproduces the Complainant’s trademark with the addition of the word “mining,” which refers to the Complainant’s activities. The Panel also notes that the Respondent tried to impersonate the Complainant and induced the website visitor to input login credentials attempting to obtain clients’ sensitive login credentials under the false pretense that it is affiliated with the Complainant.

The composition of the disputed domain name including the term “mining” increases the level of confusing similarity with the Complainant’s trademarks and services.

The Panel has held that the use of the disputed domain name for illegal activity, namely, impersonation/passing off and fraud, constitutes bad faith under the Policy. [WIPO Overview 3.0](#), section 3.4.

The Panel finds that the Complainant has established the third element of the Policy, in accordance with paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy.

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 <barrickgoldmining.com> be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: March 14, 2024