

## **ADMINISTRATIVE PANEL DECISION**

Barclays Bank PLC v. Jerry Kenny, Graphics Planet Ltd  
Case No. D2024-0583

### **1. The Parties**

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

The Respondent is Jerry Kenny, Graphics Planet Ltd, Ghana.

### **2. The Domain Name and Registrar**

The disputed domain name <inter-barclays.com> is registered with Name.com, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 8, 2024. On February 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 8, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 February 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 4, 2024.

The Center appointed a panelist in this matter on March 12, 2024. Due to a late disclosure of a potential conflict, the said panelist had to recuse itself from the proceedings on March 26, 2024. The Center proceeded to appoint Federica Togo as the sole panelist in this matter on March 28, 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**

It results from the Complainant's undisputed allegations that it is a wholly owned subsidiary of Barclays PLC, a British multinational banking and financial services company headquartered in London, United Kingdom 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 investment banking, corporate, private and overseas services operations (amongst others) providing products and services for large corporate, wholesale and international banking clients. The Complainant has operations in over 50 countries and territories and has approximately 48 million customers.

The Complainant's parent company Barclays PLC owns numerous trademark registrations throughout the world for or containing BARKLEYS, e.g. European Union Trade Mark Registration No. 002315554 BARCLAYS, registered on February 13, 2003, in Classes 9, 16, 35,36, 38, and 42; European Union Trade Mark Registration No. 000055236 BARCLAYS, registered on January 26, 1999, in Classes 9, 16, 35, 36, and 42.

In addition, the Complainant uses the following domain name <barclays.com> as its official corporate domain name.

The disputed domain name was registered on September 30, 2022. Furthermore, the undisputed evidence provided by the Complainant proves that it resolves to a website of "Sebswed LLC" and/or "AI Chattered Bank LLC" purporting to provide banking services. Additionally, the disputed domain name appears to have valid SPF and MX records.

Finally, the Complainant sent a cease and desist letter to the Respondent on September 4, 2023. The Respondent did not reply to it.

#### **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.

Notably, the Complainant contends that is the licensee of numerous registered trademarks in a range of classes throughout the world containing or incorporating BARCLAYS including 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. In addition, the Complainant claims to have substantial worldwide reputation for banking and financial services (both overseas and in the United Kingdom).

The Complainant contends that the disputed domain name is confusingly similar with the trademark BARCLAYS in which the Complainant has rights, since it contains the trademark BARCLAYS entirely. The addition of "inter-" does nothing to distinguish the disputed domain name from the Complainant's trademark, in fact it enhances the inference likely to be drawn given that "inter" is commonly understood to be short for "international", which is likely to be associated with the Complainant, given the substantial reputation the Complainant has in providing international banking services.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, the website to which the disputed domain name resolves is a page that purportedly offers banking and payment services, therefore enhancing the confusion of customer landing on the website. Given that the disputed domain name incorporates the Complainant's trademarks in full and without any other distinctive element, it is such that it could never be used for a legitimate purpose by

any party other than the Complainant. Any such third-party use would inevitably confuse visitors into believing the disputed domain name is registered to, operated, or authorised by, or otherwise connected with the Complainant.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant, the Respondent acquired the disputed domain name for the purpose of unfairly disrupting the business of the Complainant by deceiving customers into believing that the disputed domain name is owned by or associated with the Complainant. The disputed domain name indicates that the website is associated with the Barclays corporate group, and the fact that the website associated with the disputed domain name purportedly offers banking services to customers is highly likely to confuse consumers into thinking that the disputed domain name is registered to, operated or authorized by, or otherwise connected with the Complainant. Given the strong reputation of the Complainant's trademarks, the Respondent must have been aware that in registering the disputed domain name, it was misappropriating the valuable intellectual property of the owner of the Complainant's trademarks.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable". Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that each disputed domain name be transferred or cancelled:

- (i) the disputed domain name is identical or confusingly similar to 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 name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

### **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.

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 above in the Factual Background, the Panel considers that the Complainant has standing to bring this UDRP proceeding.

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.

Although the addition of other terms - here, "inter" (and hyphen) - may bear on assessment of the second and third elements, the Panel finds the addition of such term 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.

Moreover, the Panel notes that the disputed domain name contains the registered and well-known trademark BARCLAYS, and that more likely than not, that the Respondent registered the disputed domain name with the intention to take advantage of the Complainant’s reputation by registering a domain name containing the BARCLAYS trademark with the intent to mislead Internet users.

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

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel shares the view of other UDRP panels and finds that BARCLAYS trademark is well known. Therefore, this Panel has no doubt that the Respondent knew or should have known the Complainant’s trademark when registering the disputed domain name. This is underlined by the fact that the disputed domain name is clearly constituted by the BARCLAYS trademark preceded by the term “inter” (and hyphen). Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith, [WIPO Overview 3.0](#) section 3.1.4. The Panel shares this view.

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 disputed domain name resolves to a website of “Sebswed LLC” and/or “AI Chattered Bank LLC” purporting to provide banking services. Such use constitutes bad faith pursuant to paragraph 4(b)(iv) of the Policy.

Finally, the further circumstances surrounding the disputed domain name’s registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith:

- (i) the nature of the disputed domain name (a domain name incorporating the complainant's mark plus an additional term);
- (ii) the disputed domain name appears to have valid SPF and MX records; and
- (iii) a clear absence of rights or legitimate interests coupled with no response for the Respondent's choice of the disputed domain name.

The Panel finds that the Complainant has established the third element 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 <inter-barclays.com> be transferred to the Complainant.

*/Federica Togo/*

**Federica Togo**

Sole Panelist

Date: April 10, 2024