

ADMINISTRATIVE PANEL DECISION

Barracuda Networks, Inc. v. Jiri Capcuch
Case No. D2024-0738

1. The Parties

The Complainant is Barracuda Networks, Inc., United States of America (“United States”), represented by KXT LAW, LLP, United States.

The Respondent is Jiri Capcuch, Czech Republic.

2. The Domain Name and Registrar

The disputed domain name <barrakudanetworks.com> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 16, 2024. On February 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 20, 2024, 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 (Registration Private and Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 20, 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 amendment to the Complaint on February 21, 2024.

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 February 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 19, 2024.

The Center appointed Alistair Payne as the sole panelist in this matter on March 25, 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, founded in 2003, is based in California and provides IT security, networking and storage appliances, and cloud-based services. It owns United States trade mark registration 4922692 for its BARRACUDANETWORKS mark which was registered on March 22, 2016. It also owns the domain name <barracudanetworks.com> from which it offers its various IT products.

The disputed domain name was registered on January 22, 2024. It re-directs to a parking page at <38.barrakudanetworks.com> a webpage that includes links under the headings “network security”, “unified endpoint management solution” and “cyber threat monitoring tools” to sites offering various IT products.

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 it owns registered trade mark rights for its BARRACUDANETWORKS mark. It says that the disputed domain name only differs from its mark by the replacement of the letter “c” with the letter “k” and is therefore confusingly similar to its registered trade mark.

The Complainant says that it registered its trade mark and domain name long before the disputed domain name was registered and that it has used its BARRACUDA NETWORKS mark since December 2002. It submits that the Respondent’s registration of the disputed domain name with one letter different amounts to an example of typo squatting. The Complainant says that this is an intentional attempt to divert traffic from consumers trying to purchase the Complainant’s goods and services by tricking them into believing that they are accessing the Complainant’s website. Alternatively, it says that the Complainant intends to use the disputed domain name in order to trick Internet users into believing that they are receiving marketing or other promotional material from the Complainant’s website at <barracudanetworks.com> through the use of a spoofed “barrakudanetworks.com” email address that would look confusingly similar to a legitimate email from Complainant and that could be used for phishing or other cyber-attacks.

The Complainant says that the Respondent is not and has not been commonly known as BARRACUDA NETWORKS or by the disputed domain name. Further, it says that the disputed domain name is not descriptive and that the Respondent is not a licensee of Complainant, nor is it otherwise authorised to use the Complainant’s BARRACUDA NETWORKS mark for any purpose. It says that there is no legitimate basis for Respondent’s registration of the disputed domain name which is confusingly similar to the Complainant’s BARRACUDA NETWORKS mark and to the disputed domain name.

The Complainant says that while the Respondent has not yet sought to sell the disputed domain name to the Complainant (and Complainant is not aware of any offers to sell to any third parties), the Respondent’s decision to hold the registrations anonymously suggests that the Respondent may have such an intention. The Complainant further says that at the time of filing the Complaint the disputed domain name initially redirected users to <38.barrakudanetworks.com> (the “First Redirect”) which in turn re-directed Internet users to a pay-per-click webpage that lists out multiple third-party links related to different advertisements covering contents such as “Network Security Scan,” “Virus Protection Software,” and “Gartner Magic Quadrant Api Management.”. The Complainant says that the terms “Network Security Scan” and “Virus Protection Software” directly relate to Complainant’s IT security business.

Further, the Complainant says that the disputed domain name also attempted to redirect users to a URL that is “not valid” (“Second Redirect”). It says that the Second Redirect led users to a fake 13 Windows Defender Security Center notification that tells users that they must contact a fake Windows Support phone number. If the user is led to the Second Redirect, the Complainant says that it showed that the user’s IP address, location and internet service provider which it says added to the credibility of the alleged threat. The Complainant says that its products are designed to protect against the type of threats raised by the Second Redirect. It says that this evidences that the Respondent through the Second Redirect, is using the disputed domain name to intentionally create confusion in the marketplace and then to capitalise off the Complainant’s goodwill by subjecting confused consumers to malware, ransomware, or some other form of security breach through the fake Windows Support notification and phone number.

Finally, the Complainant asserts that the Respondent has used the disputed domain name to intentionally attract Internet users to its websites by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website under paragraph 4(b)(iv) of the Policy. It says that the fact that it has used the Complainant’s trade mark with merely one letter transposed to a similar sounding letter (i.e., “c” to “k”) while retaining a proper spelling in several European languages appears to be an intentional attempt to divert traffic to the Respondent’s websites for its own commercial gain by confusing Internet users into thinking that they are accessing the Complainant’s website.

B. Respondent

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

6. Discussion and Findings

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 Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. The disputed domain name only differs from the BARRACUDANETWORKS mark by the replacement of the letter “c” with the letter “k” and is therefore a misspelling which is confusingly similar to the Complainant’s trade mark in terms of section 1.9 of the [WIPO Overview 3.0](#).

The Panel finds that 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.

The Complainant has submitted that it registered its trade mark and domain name long before the disputed domain name was registered and that it has used its BARRACUDA NETWORKS mark since December 2002 and that the Respondent is not and has not been commonly known as BARRACUDA NETWORKS or by the disputed domain name. It has further submitted that the disputed domain name is not descriptive and that the Respondent is not a licensee of Complainant, nor is it otherwise authorised to use the Complainant's BARRACUDA NETWORKS mark for any purpose. It has asserted that the Respondent's registration of the disputed domain name with one letter different amounts to an example of typo squatting and that this amounts to an intentional attempt to divert traffic from consumers trying to purchase the Complainant's goods and services by tricking them into believing that they are accessing the Complainant's website when this is not the case and in circumstances that they are presented with links to websites featuring alternative or competing products. Finally, it has asserted that there is no legitimate basis for the Respondent's registration of the disputed domain name which is confusingly similar to the Complainant's BARRACUDA NETWORKS mark and to the disputed domain name.

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 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 notes that the Respondent registered the disputed domain name on January 22, 2024, many years after the Complainant's registration and initial use of its distinctive BARRACUDANETWORKS trade mark on the Complainant's website at <barracudanetworks.com>. This appears to be a classic case of typo squatting in which the disputed domain name only differs from the Complainant's mark by the replacement of the letter "c" for "k". It seems to the Panel more likely than not that, based on the Complainant's online presence, the Czech based Respondent was aware of the Complainant's mark at the date of registration of the disputed domain name.

Under paragraph 4(b)(iv) of the Policy there is evidence of registration and use of the disputed domain name in bad faith where a Respondent has used the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trade marks as to the source, sponsorship, affiliation, or endorsement of the website.

Internet users seeing the disputed domain name would naturally assume that it would lead them to a business run by or connected with the Complainant under its BARRACUDA NETWORKS mark in relation to the Complainant's IT security, network, and storage products. Instead, as reviewed by this Panel, Internet users are re-directed to a parking page at <38.barrakudanetworks.com> which features links under several headings, namely "Network Security", "Unified Endpoint Management Solution" and "Network Firewall Security". These links then divert Internet users to a range of products or services that appear to be similar to or compete with those provided by the Complainant. The Panel finds that this amounts to confusing Internet users as to the source, sponsorship, affiliation, or endorsement of the website in terms of paragraph 4(b)(iv) of the Policy which is evidence of registration and use in bad faith. The fact that the Respondent

registered the disputed domain name with a privacy service in an apparent attempt to avoid disclosure only reinforces the Panel's view in this case of the Respondent's bad faith.

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 <barrakudanetworks.com> be transferred to the Complainant.

/Alistair Payne/

Alistair Payne

Sole Panelist

Date: April 4, 2024