

ADMINISTRATIVE PANEL DECISION

Bainbridge Capital, Inc. v. Alicia Cozine
Case No. D2024-1123

1. The Parties

The Complainant is Bainbridge Capital, Inc., United States of America (“U.S.”), represented by Stradling Yocca Carlson & Rauth, P.C., U.S.

The Respondent is Alicia Cozine, U.S.

2. The Domain Name and Registrar

The disputed domain name <bainbridge.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 March 4, 2024. On March 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 15, 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 (Annex 1, a Domain/IP Whois Report from ViewDNS.info, shows, for example, under the title “Redistry Redistrant ID:” the following: “Registrant Name: Redacted for Privacy” and “Registrant Organization: Privacy service provided by Withheld for Privacy ehf”) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 18, 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 the same day.

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 March 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 15, 2024.

The Center appointed Gordon Arnold as the sole panelist in this matter on April 17, 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 following facts that are relevant to the decision are uncontested:

Complainant owns the following trademarks registered with the U.S. Patent and Trademark Office (USPTO):

Mark	Reg. No.	Reg. Date	Class/Goods
BAINBRIDGE CAPITAL (word mark)	3484963	August 12, 2008	Class 36: Capital investment consultation; equity capital investment; investment advisory services; investment banking services; investment consultation; investment management; investment services, namely asset acquisition, consultation, development and management services.
BAINBRIDGE (figurative mark)	2156896	May 12, 1998	Class 35: Business management consulting services and market research services.
BAINBRIDGE (word mark)	3496030	September 2, 2008	Class 36: Capital investment consultation; Equity capital investment; Investment advisory services; Investment banking services; Investment consultation; Investment management; Investment services, namely asset acquisition, consultation, development and management services.

Copies of the U.S. Trademark Registration certificates were attached to the Complaint as Annexes 4, 5, and 6.

The disputed domain name was registered on November 24, 2023, and has been used in a fraudulent, phishing email campaign (Annex 8 to the Complaint).

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:

The Complainant in this administrative proceeding is using its registered marks.

The Complainant specifically alleges that it is a Delaware corporation having a business address in the U.S., and it is a top tier Forbes-ranked, global strategic and capital advisory firm. Its website may be found at the domain name <bainbridge.com>.

The Respondent registered the disputed domain name in 2023 and has been engaged in a fraudulent, phishing email campaign from an email address: [...]@bainbridge.com.

An example of the email campaign was submitted in Annex 8 to the Complaint, in which the signature line of a message offering employment to the recipient purports to be from “Bainbridge Strategy Consulting.”

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.

Further, the Panel finds the BAINBRIDGE 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. [WIPO Overview 3.0](#), section 1.7

Although the addition of other term (here, the letter “i”) may bear on assessment of the second and third elements, the Panel finds the addition of one letter in the middle of the mark does not prevent a finding of confusing similarity between the disputed domain name and the BAINBRIDGE 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.

Based on the evidence provided, and the lack of a response by the Respondent, leading the Panel to see the only reasonable inference to be that the Respondent had no argument or evidence to refute the Complaint, the Panel finds that the Complainant has been using the BAINBRIDGE trademark in commerce as early as January 1996, which pre-dates the registration date of 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 such as those enumerated in the Policy or otherwise.

Further, panels have held that the use of a domain name for illegal activity (phishing, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Complaint and its attached Annexes, along with the lack of submission of any defense or evidence by the Respondent, make the only reasonable conclusion to be that the Respondent has no rights or legitimate interests.

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

C. Registered and Used in Bad Faith

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.

Further, Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Based on the present record, however, the Panel finds the non-use as a web page name does not prevent a finding of bad faith. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

The Panel notes that the Respondent used the Complainant's exact service mark BAINBRIDGE in the Respondent's phishing email sent from an email address associated with the disputed domain name.

Panels have held that the use of a domain name for illegal activity, described above, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under 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 <bainibridge.com> be transferred to the Complainant.

/Gordon Arnold/

Gordon Arnold

Sole Panelist

Date: May 1, 2024