

ADMINISTRATIVE PANEL DECISION

Steven Anthony Barter Jr v. Muhammad Ibrar, Niaz Aslam, Abdul Rehman,
and M Ibrar

Case No. D2024-1303

1. The Parties

Complainant is Steven Anthony Barter Jr., United States of America, represented by Marq Vision Inc., Republic of Korea.

Respondents are Muhammad Ibrar, Pakistan, Niaz Aslam, Pakistan, Abdul Rehman, Pakistan, and M Ibrar, United Kingdom.

2. The Domain Name and Registrars

The disputed domain names <barrierscloth.com>, <barriersclothing.store> and <barriershoodies.com> are registered with NameCheap, Inc. and the disputed domain name <barriersclothings.com> is registered with Name SRS AB (the “Registrars”) (“individually “Domain Name” and collectively “Domain Names”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 27, 2024. On March 27, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with Domain Names. On March 28, 2024 and April 2, 2024, the Registrars transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent (Unknown) and contact information in the Complaint.

The Center sent an email communication to Complainant on April 2, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting Complainant to either file separate complaint for the Domain Names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. Complainant filed an amended Complaint on April 13, 2024.

The Center verified that the Complaint together with the amended Complain 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 Respondent of the Complaint, and the proceedings commenced on April 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 13, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on May 15, 2024.

Due to an administrative oversight, the notification was not sent to all of Respondent's contact details and the Center renotified the case on May 30, 2024. The due date for Response was June 4, 2024. Respondent did not send a formal response.

The Center appointed Marina Perraki as the sole panelist in this matter on June 18, 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. Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. Complainant requests the consolidation of the Complaint against the multiple underlying registrants pursuant to paragraph 10(e) of the Rules.

The underlying registrants did not comment on Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing Complainant's request, the Panel will consider whether (i) the Domain Names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that:

- each of the websites linked to the Domain Names identically features the trademarked BARRIERS logo on the top of their homepages;
- the layout and designs of the websites associated with the Domain Names are nearly identical, including elements such as the main page layout and menu options "Hoodie", "Clothing", "Blog", and "Login or Register";
- all Domain Names were registered within a similar timeframe, specifically in December 2023, and share the same updated date according to Whois information, which is March 18, 2024;
- The Domain Names <barriersclothing.store>, <barriershoodies.com>, and <barrierscloth.com> are all registered through the same registrar, Namecheap Inc. Despite being registered through different registrars, <barriersclothings.com> shares the exact registration date of December 6, 2023, with another Domain Name, <barrierscloth.com>;
- the address of Respondent for <barriersclothings.com> closely matches that of <barriersclothing.store> and <barriershoodies.com>, with all sharing the same zip code 56130 Renala Khurd, Punjab, Pakistan. Moreover, the phone numbers of the registrants correspond to Pakistani numbers. This suggests that these domains are controlled by the same individual or entity, despite having different stated registrant names;
- in the case of <barrierscloth.com>, Respondent's name "M Ibrar" appears to be an abbreviation of the full

name “Muhammad Ibrar”, which is used for Respondent of the other Domain Name, <barriersclothings.com>. Furthermore, both Domain Names share an identical email address, “...@gmail.com”. Although <barrierscloth.com> lists the United Kingdom as the registrant's country, the provided address is identified by Google as a common vendor location, which is inappropriate for an individual or company;

- all of the Domain Names share common details, characterized by a similar format of domain names, such as the addition of descriptive terms such as “clothings”, “clothing”, “hoodies”, and “cloth” with the top-level domains “.com” and “.shop”;

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different Domain Names registrants (referred to below as “Respondent”) in a single proceeding.

5. Factual Background

Complainant designs, manufactures and sells apparel, including t-shirts, hoodies, and sweatpants under the “BARRIERS” trademark, in the United States of America and worldwide.

Complainant owns the following, inter alia, trademark registrations:

- United States of America trademark registration no 6726320, BARRIERS (word), filed on March 2, 2021 and registered on May 24, 2022, for goods in international classes 25 and 35; and

- International trademark registration no 1633193, BARRIERS (word), registered on November 16, 2021, for goods in international classes 25 and 35.

The Domain Names were registered as follows:

<barriershoodies.com> on December 24, 2023;

<barrierscloth.com> on December 6, 2023;

<barriersclothings.com> on December 6, 2023;

<barriersclothing.store> on December 2, 2023.

The Domain Names lead to websites prominently displaying Complainant's marks and selling products bearing Complainant's marks without authorization. Currently they all lead to inactive websites (the “Websites”).

6. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Names.

B. Respondent

Respondent did not formally reply to Complainant's contentions.

7. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the 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 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.

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 Domain Names. Accordingly, the Domain Names are 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, "clothing", "clothings", "hoodies", "cloth", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the Domain Names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The generic Top-Level Domains ("gTLD") ".com" and ".store" are disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); and *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#)). [WIPO Overview 3.0](#), section 1.11.1.

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 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Names. Respondent has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Names such as those enumerated in the Policy or otherwise.

On the contrary, as Complainant demonstrated, the Domain Names resolve to the Websites, which suggest falsely that they are of Complainant or of an affiliated entity or of an authorized partner of Complainant.

Per Complainant, Respondent is not an affiliated entity or an authorised distributor, or reseller of Complainant and no agreement, express or otherwise, exists allowing the use of Complainant's trademarks on the Websites and the use of the Domain Names by Respondent.

A distributor or reseller can be making a bona fide offering of goods and thus have a legitimate interest in a domain name only if the following cumulative requirements are met (*Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#); [WIPO Overview 3.0](#), section 2.8.1: (i) respondent must actually be offering the goods at issue; (ii) respondent must use the site to sell only the trademarked goods; (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and (iv) respondent must not try to "corner the market" in domain names that reflect the trademark.)

These requirements are not cumulatively fulfilled in the present case. The composition of the Domain Names falsely suggest that the Websites are an official site of Complainant or of an entity affiliated to or endorsed by Complainant. [WIPO Overview 3.0](#), section 2.5.1. At the time of filing the Complaint, the Websites extensively reproduced, without authorization by Complainant, Complainant's trademark and logos, without any disclaimer of association (or lack thereof) with Complainant.

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.

The Panel concludes that Respondent has registered and used the Domain Names in bad faith. Because the BARRIERS mark had been widely used and registered at the time of the Domain Names registrations by Complainant, the Panel finds it more likely than not that Respondent had Complainant's mark in mind when registering the Domain Names (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#); *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#)).

As regards bad faith use of the Domain Names, Complainant has demonstrated that the Domain Names were used to create the Websites, which prominently displayed Complainant's registered trademarks and logos, thereby giving the false impression that they are operated by Complainant, or a company affiliated to Complainant, or an authorised dealer of Complainant. The Domain Names operated therefore by intentionally creating a likelihood of confusion with Complainant's trademark and business as to the source, sponsorship, affiliation or endorsement of the website it resolves to. This can be used in support of bad faith registration and use (*Booking.com BV v. Chen Guo Long*, WIPO Case No. [D2017-0311](#); *Ebel International Limited v. Alan Brashear*, WIPO Case No. [D2017-0001](#); *Walgreen Co. v. Muhammad Azeem / Wang Zheng, Nicenic International Group Co., Limited*, WIPO Case No. [D2016-1607](#); *Oculus VR, LLC v. Sean Lin*, WIPO Case No. [DCO2016-0034](#); and [WIPO Overview 3.0](#), section 3.1.4).

The Panel finds that Complainant has established the third element of the Policy.

8. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Names <barrierscloth.com>, <barriersclothings.com>, <barriersclothing.store> and <barriershoodies.com> be transferred to Complainant.

/Marina Perraki /

Marina Perraki

Sole Panelist

Date: July 2, 2024