

ADMINISTRATIVE PANEL DECISION

Barnes Europe Consulting Kft., and Heidi Barnes-Watson v. Schiller, Carey
Case No. D2024-1546

1. The Parties

The Complainants are Barnes Europe Consulting Kft., Hungary, and Heidi Barnes-Watson, United States of America (“United States”), represented by MIIP MADE IN IP, France.

The Respondent is Schiller, Carey, United States.

2. The Domain Name and Registrar

The disputed domain name <barnes-int.com> is registered with Network Solutions, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 11, 2024. On April 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 April 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 21, 2024.

The Center appointed Evan D. Brown as the sole panelist in this matter on May 31, 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 Complainants described themselves as well-known real estate agents doing business in respect of high end properties in a number of regions, including Europe and the United States. They own several marks that they use in connection with the business, including the word mark BARNES (e.g., United States Reg. No. 6855266, registered on September 27, 2022), and BARNES INTERNATIONAL REALTY (Stylized) (e.g., Canadian Reg. No. TMA1090929, registered on January 5, 2021) (collectively, the “BARNES marks”).

According to the Whois information, the disputed domain name was registered on December 3, 2023. The evidence the Complainants submitted shows the disputed domain name is not being used with an active website but instead resolved to an “error” page.

5. Parties’ Contentions

A. Complainants

The Complainants contend that the disputed domain name is identical or confusingly similar to the Complainants’ trademark; that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

The Respondent did not respond to the Complainants’ contentions.

6. Discussion and Findings

A. Consolidation of Multiple Complainants

The Complainants in this administrative proceeding request consolidation of the two Complainants. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) states in section 4.11.1: “In assessing whether a complaint filed by multiple Complainants may be brought against a single respondent, panels look at whether (i) the Complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the Complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation.”

The Panel has carefully reviewed all elements of this case, giving particular weight to the evidence that the Complainants jointly own the trademarks on which they rely. The Panel concludes from such evidence that both Complainants are the target of common conduct by the Respondent and both have common grievances regarding the use of their BARNES trademarks in the disputed domain name by the Respondent. The Panel accepts that permitting the consolidation would be fair and equitable to all Parties involved and would safeguard procedural efficiency. The Panel therefore grants the request for consolidation of the Complainants.

B. Identical or Confusingly Similar

This element requires the Panel to consider two issues: first, whether the Complainants have rights in a relevant mark; and second, whether the disputed domain name is identical or confusingly similar to that mark. This element under the Policy functions primarily as a standing requirement. [WIPO Overview 3.0](#), section 1.7.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainants have demonstrated their rights in the BARNES marks by providing evidence of their trademark registrations.

This test under this element typically involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. [WIPO Overview 3.0](#), section 1.7. In some cases, such assessment may also entail a more holistic aural or phonetic comparison of the complainant's trademark and the disputed domain name to ascertain confusing similarity. *Id.*

Guided by these principles, the Panel finds that the disputed domain name is confusingly similar to the Complainants' BARNES marks. This is moreover true when considering that the "-int" portion of the disputed domain name is likely intended to refer to the word "international", thus affirming the similarity to the Complainants' mark BARNES INTERNATIONAL REALTY. The BARNES marks are in any event plainly recognizable for a showing of confusing similarity under the Policy.

The Panel finds that the Complainants have established this first element under the Policy.

C. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainants have made a prima facie showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainants make that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondent (with the burden of proof always remaining with the Complainants). See [WIPO Overview 3.0](#), section 2.1; *AXA SA v. Huade Wang*, WIPO Case No. [D2022-1289](#).

On this point, the Complainants assert that: (1) the Respondent has no rights including trademark rights in respect of the name Barnes, (2) there is no business or legal relationship between the Complainants and the Respondent, and (3) the disputed domain name is not in use. The Panel finds these assertions sufficient to establish the Complainants' prima facie showing. The Respondent has not presented evidence to overcome this prima facie showing. And nothing in the record otherwise tilts the balance in the Respondent's favor.

Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

D. Registered and Used in Bad Faith

The Policy requires a complainant to establish that the disputed domain name was registered and is being used in bad faith.

Because the Complainants' BARNES marks are registered in multiple jurisdictions (including the United States, where the Respondent appears to be located), and because there is evidence that the mark has been used for a number of years and is known in the marketplace, especially in light of the composition of the disputed domain name – the mark plus the designation "-int", the Panel finds it likely that the Respondent was aware of the BARNES marks when it registered the disputed domain name. In the circumstances of this case, without the benefit of any explanation whatsoever from the Respondents as to a possible good faith use of the disputed domain name, such a showing is sufficient to establish bad faith registration of the disputed domain name.

The circumstances also demonstrate bad faith use of the disputed domain name in terms of the Policy.

Where a disputed domain name is "so obviously connected with such a well-known name and products [...] its very use by someone with no connection with the products suggests opportunistic bad faith". See *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#). Furthermore, from the inception of the UDRP, panels have found that the non-use of a domain name (including a blank page) would not prevent a finding of bad faith under the doctrine of passive holding; this is especially so where the composition of the disputed domain name makes it clear that the particular mark is being targeted. See [WIPO Overview 3.0](#), section 3.3.

The Panel finds that the Complainant has established this third element 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 <barnes-int.com> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: June 14, 2024