

## **ADMINISTRATIVE PANEL DECISION**

**Barrick Gold of North America, Inc. and Barrick Gold Corporation v. “Fake Contact Information”**

**Case No. D2024-3807**

### **1. The Parties**

Complainants are Barrick Gold of North America, Inc., United States of America, and Barrick Gold Corporation, Canada, (collectively “Complainant”), represented by Dorsey & Whitney, LLP, United States of America.

Respondent is “Fake Contact Information”, United States of America.

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

The disputed domain names <barrickgoldcapital.com>, <barrickgoldcapital.net>, and <barrickgoldcapital.org> are registered with Gname.com Pte. Ltd. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 18, 2024. On September 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 20, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to Complainant on September 24, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint 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 Respondent of the Complaint, and the proceedings commenced on September 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 29, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 23, 2024.

The Center appointed Lynda J. Zadra-Symes as the sole panelist in this matter on November 6, 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

Complainant, together with its parents, affiliates and subsidiaries, comprises one of the largest gold mining operations in the world. Complainant has used the trademark BARRICK in connection with gold and copper mining and precious metal goods and services in over thirteen countries since at least as early as 1983.

Complainant is the owner or licensee of numerous United States of America and foreign trademark registrations, including the following United States of America Trademark Registrations incorporating the mark BARRICK:

Registration Nos.		
4578245	BARRICK	Registered August 5, 2014
4683358	BARRICK GOLD	Registered February 10, 2015
4944505	BARRICK GOLD	Registered April 26, 2016
6039563	BARRICK NEVADA	Registered April 28, 2020
6077368	BARRICK NEVADA	Registered June 16, 2020
6225225	BARRICK	Registered December 22, 2020
6592636	BARRICK	Registered December 21, 2021

Complainant advertises and promotes its goods and services online at the website “www.barrick.com” which it has used since 1995. Complainant also uses its BARRICK mark prominently on social media, including LinkedIn, Facebook and Twitter.

The disputed domain names were registered on July 18, 2024. Respondent used fake contact information to register the disputed domain names. There is no active website associated with the disputed domain names. All the disputed domain names yield error messages that note “this site cannot be reached.” At least one of the disputed domain names has been used in connection with a fraudulent phishing scheme attempting to induce payment for purported “taxes” from Complainant’s customers.

#### 5. Parties’ Contentions

##### A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

##### B. Respondent

Respondent did not reply to 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.

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 names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain names. Complainant has used its <barrick.com> domain name since 1995. Complainant has not licensed Respondent to use its trademarks nor has it otherwise authorized Respondent to register the disputed 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 disputed domain names such as those enumerated in the Policy or otherwise.

Complainant submitted evidence that Respondent is using at least one of the disputed domain names in an active email phishing campaign in an attempt to induce payment for "taxes" from Complainant's customers, and is doing so by impersonating Complainant. It was brought to Complainant's attention that Respondent is using the email address "[...].@barrickgoldcapital.net" to send out fake requests for tax payments using Complainant's BARRICK marks and purporting to be Complainant by signing the emails as "Barrick Gold Capital Support Team." At least one individual paid Respondent the equivalent of USD 35,000. He requested return of the money, but never received a response from Respondent.

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

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.

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 Panel finds that Respondent registered the disputed domain names in bad faith. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), Section 3.1.4. The Panel finds that Respondent deliberately targeted Complainant's BARRICK mark when it registered the disputed domain names.

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. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel finds that in the circumstances of this case the passive holding of the disputed domain names <barrickgoldcapital.com> and <barrickgoldcapital.org> does not prevent a finding of bad faith under the Policy.

Panels have held that the use of a domain name for phishing or other types of fraud constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the disputed domain name <barrickgoldcapital.net> constitutes bad faith under the Policy.

The Panel finds that 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 names <barrickgoldcapital.com>, <barrickgoldcapital.net>, and <barrickgoldcapital.org> be transferred to Complainant.

*/Lynda J. Zadra-Symes/*

**Lynda J. Zadra-Symes**

Sole Panelist

Date: November 20, 2024