

ADMINISTRATIVE PANEL DECISION

**JBANK - Barclays Bank Delaware, Mastercard International Incorporated,
and Carnival Corporation v. Domain Administrator**
Case No. D2024-4199

1. The Parties

The Complainants are JBANK - Barclays Bank Delaware, Mastercard International Incorporated, and Carnival Corporation, United States of America ("United States"), represented by CSC Digital Brand Services AB, Sweden.

The Respondent is Domain Administrator, United States.

2. The Domain Name and Registrar

The disputed domain name <carnivalmastercard.com> is registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 11, 2024. On October 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 14, 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, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainants on providing the registrant and October 15, 2024 contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on October 16, 2024.

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 October 17, 2024. In accordance with the Rules,

paragraph 5, the due date for Response was November 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Parties of the Respondent's default on November 7, 2024.

The Center appointed Ingrida Kariņa-Bērziņa as the sole panelist in this matter on November 15, 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 Carnival Corporation ("Carnival") is an American company operating international cruise lines. It is the proprietor of numerous registrations for its CARNIVAL mark, including

- United States Trademark Registration No. 1489673 for CARNIVAL (word mark), registered on May 25, 1988 for services in class 41, claiming first use in 1972;
- European Union Trade Mark No. 002878445 for CARNIVAL (device mark), registered on February 16, 2004 for goods and services in classes 18, 21, 39, 41 and 43.

The Complainant Mastercard International Incorporated ("Mastercard") is an American multinational payment card services company established in the State of New York. It operates the Carnival loyalty program credit card. It is the proprietor of numerous registrations for its MASTERCARD mark, including:

- United States Trademark Registration No. 1257853 for MASTERCARD (device mark), registered on November 15, 1983 for services in class 36;
- European Union Trade Mark No. 000185819 for MASTERCARD (word mark), registered on August 9, 2001 for goods and services in classes 9, 16, 35 and 36.

The Complainant JBANK—Barclays Bank Delaware ("JBANK") is a multinational bank originally established in London, United Kingdom. It issues the credit card offered by Carnival in the United States, which is called "The Carnival World Mastercard" and was launched in 2004.

The disputed domain name was registered on September 7, 2004. At the time of the Complaint and of this Decision, it did not resolve to an active website.

5. Parties' Contentions

5.1. Complainant

A. Request to Consolidate Proceedings

The Complainants request consolidation of the proceedings for the following reasons. They are long-term partners in the issuance of "The Carnival World Mastercard," which is the travel rewards credit card program established by Carnival, issued by JBANK and operated by Mastercard. JBANK is authorized to file this Complaint with and on behalf of its business partners Mastercard and Carnival. Barclays is the trademark licensee of Mastercard and thus shares a common legal interest in submitting the Complaint.

B. Substantive Contentions

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that they have been in partnership in issuing the Carnival loyalty credit card since 2004. The disputed domain name consists solely of the Complainants' respective MASTERCARD and CARNIVAL trademarks. The Respondent is not sponsored by or affiliated with the Complainants in any way, nor is it known by the disputed domain name. The disputed domain name was registered in 2004, the year that the Complainants launched its credit card program and resolves to a blank webpage. The Complainants' CARNIVAL and MASTERCARD marks are well-known. The Respondent employed a privacy service to conceal its identity.

The Complainants request that the disputed domain name be transferred to Complainant JBANK.

5.2. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1 Preliminary Issue – Consolidation of Proceedings

Pursuant to paragraph 10 of the Rules:

- (a) The Panel shall conduct the administrative proceeding in such manner as it considers appropriate in accordance with the Policy and these Rules.
- (b) In all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case.

Consolidation of Multiple Complainants

The principles to assess a request to consolidate multiple complainants are set forth in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 4.11.1.

Noting the circumstances of the case, in particular the disputed domain name reflects the CARNIVAL and MASTERCARD marks in their entirety. The Complainants are engaged in a partnership to offer "The Carnival Mastercard" credit card. JBANK issues this credit card and has been authorized by Carnival and Mastercard to file this Complaint. The Panel therefore considers that the Complainants have a specific common grievance against the Respondent and the Respondent has engaged in common conduct that has affected the Complainants in a similar fashion. Under the circumstances, the Panel finds it would be equitable and procedurally efficient to permit the consolidation.

The Respondent does not challenge the Complainants' assertions nor offer any alternative explanation for these circumstances. Accordingly, the Panel accepts the Complainants' request to consolidate the present proceedings pursuant to the Rules, paragraph 10(e). The Complainants are hereinafter referred to as "Complainant".

6.2 Substantive Issues

Paragraph 4(a) of the UDRP requires the Complainant to make out all three of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

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 Panel finds that 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 entirety of the CARNIVAL and MASTERCARD marks is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the marks 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 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 notes that the composition of the disputed domain name is identical to the CARNIVAL and MASTERCARD marks. The Panel finds that the nature of the disputed domain name carries a risk of implied affiliation to the Complainant that cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

The Respondent has not proved rights or legitimate interests. There is no evidence that the Respondent is commonly known by the disputed domain name, or that there are any circumstances or activities that would establish the Respondent’s rights therein. Rather, the disputed domain name is inactive. Under these circumstances, such use cannot establish rights or legitimate interests. See [WIPO Overview 3.0](#), section 2.5.2, and cases cited thereunder.

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 has not actively used the disputed domain name.

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 notes that the registration of the CARNIVAL and MASTERCARD marks predates the registration of the disputed domain name by 16 and 21 years, respectively. The Panel notes that the registration of the disputed domain name is contemporaneous with the establishment of the Complainant's credit card program in 2004. The disputed domain name is identical to these marks, creating a risk of implied affiliation with the Complainant. The Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark. [WIPO Overview 3.0](#), section 3.1.4.

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 notes the distinctiveness and reputation of the CARNIVAL and MASTERCARD marks and the composition of the disputed domain name. On this basis, in the circumstances of this case, the Panel finds that the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

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 <carnivalmastercard.com> be transferred to the Complainant JBANK—Barclays Bank Delaware.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: November 28, 2024