

ADMINISTRATIVE PANEL DECISION

19networks, Inc. v. erick summerville
Case No. D2024-4597

1. The Parties

The Complainant is 19networks, Inc., United States of America (“United States”), internally represented.

The Respondent is erick summerville, United States.

2. The Domain Name and Registrar

The disputed domain name <barn-finds.com> is registered with CloudFlare, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 7, 2024. On November 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 11, 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 (Data Redacted) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 11, 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 amendment to the Complaint on November 12, 2024.

The Center verified that the Complaint together with the amendment to 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 November 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 5, 2024.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on December 10, 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 is an S-corporation (a small business pass-through tax entity under United States law) based in Idaho, United States. Since June 2011, the Complainant's principals have operated a website devoted to journalism about restored classic cars at "www.barnfinds.com" (the Complainant's website), which also serves as a platform for classic car auctions and classified advertisements for sellers and buyers interested in classic cars. Some website content may be viewed for free, and members may subscribe for additional content and features. The Complainant has nearly a million followers on its linked social media accounts, and the Panel notes that the first ten pages of Internet search results for "barn finds" largely refer to the Complainant.

Archived screenshots from the Internet Archive's Wayback Machine show that the Complainant's website has been used continuously since 2011, with the mark BARN FINDS appearing on the pages of the website and on linked social media pages, as well as a design logo that began appearing on the website by at least 2017 in the shape of a barn with the words BARN FINDS featured prominently.

The Registrar reports that the disputed domain name was created on February 19, 2024.

Archived screenshots show that the disputed domain name was used for a website (the "Respondent's former website") emulating the Complainant's website, displaying the Complainant's BARN FINDS mark and content copied from the Complainant's website concerning specific classic car auctions and classified advertisements. The Respondent's former website included tabs soliciting member log-in credentials or personal and payment details from site visitors desiring to join as new members.

At the time of this Decision, the disputed domain name does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant, which is not represented by legal counsel, does not refer to a trademark registration but states that its "brand name Barn Finds, is well recognized in the classic car industry". The Panel deems this to be a claim that BARN FINDS is subject to protection as a common-law service mark. The Complainant contends that the Respondent has no "legal rights" to the disputed domain name and registered and used it in bad faith: "They are attempting to benefit from our brand by registering a confusingly similar domain name and displaying content that has been scrapped [sic]/copied directly from our website."

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 Panel finds the Complainant has established unregistered trademark or service mark rights in BARN FINDS for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3. The mark appears as a word mark on the Complainant's website since 2011 and on linked social media sites for some 20 years, as well as appearing as the dominant textual element of a figurative mark used online since at least 2017. The record shows that the mark is heavily advertised online and that the Complainant has attracted over a million followers. Moreover, the use of the disputed domain name to provide an impersonating website supports the source identifying nature and secondary meaning of the Complainant's mark, thus further affirming a finding of unregistered trademark rights under the Policy.

The entirety of the mark is reproduced within the disputed domain name, modified only by the interpolation of a hyphen, which does not avoid confusing similarity. Accordingly, the disputed domain name is 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 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 Respondent used the disputed domain name only to fraudulently emulate the Complainant's website with content copied from the Complainant, evidently phishing for personal data and attempting to defraud site visitors seeking membership subscriptions with the Complainant. These obviously cannot be considered uses in connection with a "bona fide" offering of goods or services under the Policy, paragraph 4(c)(i).

Panels have held that the use of a domain name for illegitimate or illegal activity such as that described above (impersonation, phishing, and 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.

In the present case, the Panel notes that the Respondent was clearly aware of the Complainant and its BARN FINDS mark. The Respondent mounted a site impersonating the Complainant's website promptly after registering the disputed domain name, which differs from the Complainant's domain name only by the

insertion of a hyphen. As recounted above, the Respondent's website was commercial and solicited personal and payment details from site visitors, thus satisfying the example of bad faith described in the Policy, paragraph 4(b)(iv), employing a domain name confusingly similar to a trademark in an attempt to attract Internet users for commercial gain.

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 also 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.

Panels have held that the use of a domain name for illegitimate or illegal activity, such as the impersonation, phishing, and fraud detailed above, constitutes bad faith for Policy purposes. [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.

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 <barn-finds.com> be transferred to the Complainant.

/W. Scott Blackmer/

W. Scott Blackmer

Sole Panelist

Date: December 18, 2024