

ADMINISTRATIVE PANEL DECISION

Barrick Gold of North America, Inc. and Barrick Gold Corporation v. Barrick Gold

Case No. DCO2024-0052

1. The Parties

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

The Respondent is Barrick Gold, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <barrick-gold.co> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 26, 2024. On July 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 29, 2024, 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 August 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 27, 2024.

The Center appointed Adam Taylor as the sole panelist in this matter on September 4, 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, which are part of a mining group, have traded under the mark BARRICK since at least 1983. They also trade under the mark BARRICK GOLD.

The Complainants are collectively referred to hereafter as “the Complainant” unless it is necessary to refer to them separately.

The Complainant owns a number of registered trade marks for BARRICK GOLD including Canadian trade mark No. 1534965, registered on September 18, 2013, in classes 35, 36, 37, 40 and 42.

The Complainant operates a website at “www.barrick.com”.

The disputed domain name was registered on September 29, 2023.

As of June 21, 2024, the disputed domain name resolved to a website that was branded “Barrick Gold” and headed “Continue Earning”. The site invited users to “Log in to continue earning”, followed by a log-in form including “Do not have an account” and “Forgot Password” options.

5. Parties’ Contentions

A. Complainant

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

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered and is being used in bad faith.

Consolidation: Multiple Complainants

The Panel is satisfied that (a) the Complainants, which are part of a group of companies, have a specific common grievance against the Respondent and the Respondent has engaged in common conduct that has affected the Complainants in similar fashion and (b) it would be equitable and procedurally efficient to allow this proceeding to be filed by both Complainants. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 4.11.

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 trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trade mark 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 disputed domain name. Accordingly, disregarding the hyphen which is immaterial, the disputed domain name is identical 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 recognised 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.

Panels have held that the use of a domain name for illegal activity (here, claimed phishing, impersonation and/or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. See further under section 6C below.

The Panel finds the second element of the Policy has been established.

C. Registered and Used 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.

Panels have held that the use of a domain name for illegal activity (here, claimed phishing, impersonation and/or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

The Panel notes that the disputed domain name, the branding on the Respondent’s website and the registrant name provided by the Respondent all comprise the Complainant’s highly distinctive mark and that the Respondent has not appeared in this proceeding to dispute that its website constitutes some form of phishing or other fraud. Accordingly, 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 <barrick-gold.co> be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: September 18, 2024