

ADMINISTRATIVE PANEL DECISION

Barclays Bank PLC v. Liuchao, 刘超

Case No. D2023-3160

1. The Parties

Complainant is Barclays Bank PLC, United Kingdom, represented by Bird & Bird LLP, United Kingdom.

Respondent is Liuchao, 刘超, China.

2. The Domain Names and Registrar

The disputed domain names <a-barclays.top>, <a-barclays.vip>, <a-barclays.xyz>, <apps-barclays.top>, <apps-barclays.vip>, <apps-barclays.xyz>, <barclays-app.top>, <barclays-app.vip>, <barclays-app.xyz>, <h-barclays.top>, <h-barclays.vip>, <h-barclays.xyz>, <h5-barclays6688.top>, <h5-barclays6688.vip>, and <h5-barclays6688.xyz> (the “Domain Names”) are registered with Zhengzhou Century Connect Electronic Technology Development Co., Ltd (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on July 21, 2023. On July 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On July 26, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent (Redacted for privacy, Liuchao) and contact information in the Complaint. The Center sent an email communication to Complainant on July 27, 2023, 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 in English on July 28, 2023.

On July 27, 2023, the Center informed the parties in Chinese and English, that the language of the registration agreement for the Domain Name is Chinese. On July 12, 2023, Complainant confirmed its request that English to be the language of the proceeding. Respondent did not submit any comment on Complainant’s submission.

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 August 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 28, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on September 1, 2023.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on September 12, 2023. 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 is a wholly owned subsidiary of Barclays PLC, a British multinational banking and financial services company headquartered in London and one of the world's largest financial services providers with operations in retail, wholesale and investment banking, as well as wealth management, mortgage lending and credit cards. The Complainant is responsible for Barclays PLC's retail operations, providing day-to-day products and services to 24 million individual and business customers (with a turnover less than GBP6.5m) in the United Kingdom. Therefore, Complainant has a substantial reputation for banking and financial services (both overseas and in the United Kingdom).

Complainant is the licensee of numerous registered trademarks in a range of classes throughout the world containing or incorporating BARCLAYS including the following:

- United Kingdom trademark number UK00001286579 for the BARCLAYS word mark, registered on March 3, 1989;
- United Kingdom trademark number UK00002461096 for the BARCLAYS word mark, registered on January 11, 2008;
- United Kingdom trademark number UK00002621974 for the BARCLAYS word mark, registered on September 21, 2012;
- European Union trademark number 002315554 for the BARCLAYS word mark, registered on February 13, 2003;
- European Union trademark number 010890366 for the BARCLAYS word mark, registered on October 11, 2012;
- European Union trademark number 010890309 for the BARCLAYS word mark, registered on October 11, 2012; and
- European Union trademark number 010890473 for the BARCLAYS word mark registered on October 12, 2012.

Complainant also owns and operates two official websites, namely, "www.barclays.co.uk", and "www.barclaysinvestments.com".

The Domain Names were all registered on May 29, 2023, and at the time of the filing of the Complaint, each resolves to a website that is reported as unsafe and being of high risk by the Microsoft browser Chrome for containing phishing threats which may attempt to steal personal or financial information. At the time of the Decision, all the Domain Names resolve to inactive webpages.

5. Parties' Contentions

A. Complainant

Complainant contends that (i) the Domain Names are identical or confusingly similar to Complainant's trademarks; (ii) Respondents have no rights or legitimate interests in the Domain Names; and

(iii) Respondents registered and are using the Domain Names in bad faith.

In particular, Complainant contends that it has trademark registrations for BARCLAYS and that Respondents registered and are using the Domain Names with the intention to confuse Internet users looking for *bona fide* and well-known BARCLAYS products and services.

Complainant notes that it has no affiliation with Respondents, nor authorized Respondents to register or use a domain name, which includes Complainant's trademarks, and that Respondents have no rights or legitimate interests in the registration and use of the Domain Names. Rather, Complainant contends that Respondents have acted in bad faith in acquiring and setting up the Domain Names, when Respondents clearly knew of Complainant's rights.

B. Respondents

Respondents did not reply to Complainant's contentions.

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceeding

The Rules, in paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement between the respondent and the registrar in relation to the disputed domain name, the language of the proceeding shall be the language of the registration agreement, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

Complainant submitted its original Complaint in English. In its email dated July 28, 2023, and its amended Complaint, Complainant confirmed its request that the language of the proceeding should be English. According to the information received from the Registrar, the language of the Registration Agreement for the Domain Names is Chinese.

Complainant contends that its business is conducted primarily in English and it is unable to communicate in Chinese; that the Domain Names are formed by words in Latin characters and incorporate English words especially "vip" and "apps"; Respondent's name as provided to the Center is in both Latin and Chinese; and that Respondent is targeting Complainant's trademarks, websites and businesses in Complainant's language of operation, which is English. Complainant also contends that it would be unfairly burdensome for Complainant to translate and conduct the proceeding in Chinese and would also cause unnecessary delay in the proceeding.

In exercising its discretion to use a language other than that of the Registration Agreement for the Domain Names, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties' ability to understand and use the proposed language, time and costs.

The Panel accepts Complainant's submissions regarding the language of the proceeding. The Panel notes that the Center notified the Parties in Chinese and English of the language of the proceeding as well as notified Respondent in Chinese and English of the Complaint. Respondent chose not to comment on the language of the proceeding nor did Respondent choose to file a Response.

The Panel is also mindful of the need to ensure that the proceeding is conducted in a timely and cost-effective manner. Complainant may be unduly disadvantaged by having to translate the Complaint into Chinese and to conduct the proceeding in Chinese.

Having considered all the circumstances of this case, the Panel determines that English be the language of the proceeding.

6.2. Substantive Issues

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the Domain Names are identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Names; and
- (iii) the Domain Names were registered and are being used in bad faith.

Section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)) states that failure to respond to the complainant’s contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent’s default is not necessarily an admission that the complainant’s claims are true.

Thus, although in this case Respondent has failed to respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence.

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See section 1.2.1 of the [WIPO Overview 3.0](#). Complainant provided evidence of its rights in the BARCLAYS trademarks, as noted above under section 4. Complainant has also submitted evidence which supports that the BARCLAYS trademarks are widely known and a distinctive identifier of Complainant’s products and services. Complainant has therefore proven that it has the requisite rights in the BARCLAYS trademarks.

With Complainant’s rights in the BARCLAYS trademarks established, the remaining question under the first element of the Policy is whether the Domain Names, typically disregarding the Top-Level Domain (“TLD”) in which it is registered (in this case are “.top”, “.vip” and “.xyz”), are identical or confusingly similar to Complainant’s trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

Here, the Domain Names are confusingly similar to Complainant’s BARCLAYS trademarks. These BARCLAYS trademarks are recognizable in the Domain Names, as illustrated below:

Domain Names	Added terms to BARCLAYS in the respective Domain Name
<a-barclays.top>	“a-”
<a-barclays.vip>	“a-”
<a-barclays.xyz>	“a-”
<apps-barclays.top>	“apps-”
<apps-barclays.vip>	“apps-”
<apps-barclays.xyz>	“apps-”
<barclays-app.top>	“-app”
<barclays-app.vip>	“-app”
<barclays-app.xyz>	“-app”

<h-barclays.top>	"h-"
<h-barclays.vip>	"h-"
<h-barclays.xyz>	"h-"
<h5-barclays6688.top>	"h5-" and "6688"
<h5-barclays6688.vip>	"h5-" and "6688"
<h5-barclays6688.xyz>	"h5-" and "6688"

In particular, the Domain Names' inclusion of Complainant's trademark BARCLAYS in its entirety, in each case, with an addition of one or more terms as noted in the chart above, such as the addition of the letter or terms and/or numbers: "a-", "apps", "-app", "h-", "h5-" and "6688" terms does not prevent a finding of confusing similarity between each of the Domain Names and the BARCLAYS trademarks. See section 1.8 of the [WIPO Overview 3.0](#).

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make a *prima facie* showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and its BARCLAYS trademarks, and does not have any rights or legitimate interests in the Domain Names. Complainant has confirmed that Respondent is not affiliated with Complainant, or otherwise authorized or licensed to use the BARCLAYS trademarks or to seek registration of any domain name incorporating the trademarks. Respondent is also not known to be associated with the BARCLAYS trademarks and there is no evidence showing that Respondent has been commonly known by the Domain Names.

In addition, Respondent has not used the Domain Names in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. Rather, Complainant asserts that each of the Domain Names resolves to a website that is reported as unsafe and being of high risk by the Microsoft browser Chrome for containing phishing threats which may attempt to steal personal or financial information, which has not been rebutted by Respondent. Such use does not constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use and cannot under the circumstances confer on Respondent any rights or legitimate interests in the Domain Names. See, e.g., *Intesa Sanpaolo S.p.A. v. Charles Duke / Oneandone Private Registration*, WIPO Case No. [D2013-0875](#).

Accordingly, Complainant has provided evidence supporting its *prima facie* claim that Respondent lacks any rights or legitimate interests in the Domain Names. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Names. Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Names and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent's actions indicate that Respondent registered and is using the Domain Names in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

- “(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

The Panel finds that Complainant has provided ample evidence to show that registration and use of the BARCLAYS trademarks long predate the registration of the Domain Names. Complainant is also well established and known. Indeed, the record shows that Complainant’s BARCLAYS trademarks and related products and services are widely known and recognized. Therefore, Respondent was likely aware of the BARCLAYS trademarks when it registered the Domain Names, or knew or should have known that each of the Domain Names was confusingly similar to Complainant’s trademarks. See section 3.2.2 of the [WIPO Overview 3.0](#); See also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#).

The Panel therefore finds that Respondent’s awareness of Complainant’s trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); and *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Further, the registration of the Domain Names incorporating Complainant’s BARCLAYS trademark in its entirety suggests Respondent’s actual knowledge of Complainant’s rights in the BARCLAYS trademarks at the time of registration of the Domain Names and its effort to opportunistically capitalize on the registration and use of the Domain Names.

In addition, the evidence provided by Complainant has shown that each of the Domain Names directed to a respective website that had been flagged as high risk on Chrome due to phishing concerns, all of which have not been rebutted by Respondent. Such use cannot be considered in good faith.

Moreover, Respondent registered and is using the Domain Names to confuse and mislead consumers looking for *bona fide* and well-known BARCLAYS products and services of Complainant or authorized partners of Complainant. The use of the BARCLAYS mark as the dominant part of the Domain Names is intended to capture Internet traffic from Internet users who are looking for Complainant’s products and services. Such use and association of the Domain Names to divert users to webpages that appeared to have questionable motives, could result in causing confusion with Complainant’s business activities. It may confuse Internet users who are looking for Complainant’s legitimate website and deceive Internet users into thinking that Respondent is somehow connected to Complainant, which is not the case.

At the time of the Decision, all the Domain Names resolve to inactive webpages. In this regard, section 3.3 of the [WIPO Overview 3.0](#) states that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding.

Further, the Panel also notes the failure of Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and the implausibility of any good-faith use to which the Domain Names may be put.

Accordingly, the Panel finds that Respondent registered and is using the Domain Names in bad faith and Complainant succeeds under the third element of paragraph 4(a) 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 Domain Names, <a-barclays.top>, <a-barclays.vip>, <a-barclays.xyz>, <apps-barclays.top>, <apps-barclays.vip>, <apps-barclays.xyz>, <barclays-app.top>, <barclays-app.vip>, <barclays-app.xyz>, <h-barclays.top>, <h-barclays.vip>, <h-barclays.xyz>, <h5-barclays6688.top>, <h5-barclays6688.vip> and <h5-barclays6688.xyz> be transferred to Complainant.

/Kimberley Chen Nobles/

Kimberley Chen Nobles

Sole Panelist

Date: September 27, 2023