

## ADMINISTRATIVE PANEL DECISION

Bacardi & Company Limited v. Name Redacted  
Case No. D2024-0012

### 1. The Parties

The Complainant is Bacardi & Company Limited, Liechtenstein, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Name Redacted.<sup>1</sup>

### 2. The Domain Name and Registrar

The disputed domain name <bacardi-group.com> is registered with Hostinger Operations, UAB (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 3, 2024. On January 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 5, 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 (Domain Admin, Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 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 amended Complaint on January 17, 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").

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<sup>1</sup>The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent's name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on January 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 12, 2024.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on February 16, 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 following facts are undisputed.

The Complainant is part of the Bacardi group of companies, one of the largest privately held spirits companies in the world. Established in 1862, the Complainant currently employs more than 8,000 people with sales in approximately 170 countries.

The trademark BACARDI of the Complainant is protected as a registered trademark in a multitude of countries worldwide, e.g., the European Union trademark registration No. 000123240 for the word mark BACARDI with registration date May 25, 1998, for products and services in classes 25, 30, 32 and 33.

The Complainant's main websites can be found at "bacardi.com" and "bacardilimited.com".

The Complainant's trademark was registered well before the disputed domain name, which was registered on November 9, 2023.

Until November 30, 2023, the disputed domain name resolved to a website which purportedly copied the Complainant's websites by e.g., depicting the Complainant's trademarks.

The Complainant filed abuse reports to the registrar and webhosting service of the disputed domain name, which suspended the disputed domain name. After suspension, the disputed domain name has not been in use.

#### **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.

Notably, the Complainant contends the following:

The Complainant's trademarks are well-known. The Complainant's mark BACARDI is the first and most prominent element of the disputed domain name and the remainder, apart from the generic Top-Level Domain and hyphen, consists of the common term "group", which does not render the Complainant's mark unrecognizable.

The Respondent is not sponsored, affiliated or commonly known by the disputed domain name, which evinces a lack of rights or legitimate interests. Furthermore, the disputed domain name is misleading and is likely to be a pretext for commercial gain. The Respondent was also using a privacy shield.

Further, the disputed domain name was made to resolve to a copycat website that gives the appearance of being established with the authority of the Complainant. Therefore, the Respondent was known with the trademarks of the Complainant and attempted to attract consumers for commercial gain by creating confusion.

## **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 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 mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here a hyphen and the word "group", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

Certainly lacking a response and the facts of the record before it, the Panel agrees with the Complainant that it is more likely than not that the Respondent has used the website for potentially fraudulent purposes by seeking to appear connected with the Complainant's business. Therefore there is no (i) use of the disputed domain name (or demonstrable plans for such use) with a bona fide offering; (ii) the Respondent is not commonly known by the disputed domain name and there is (iii) no legitimate noncommercial or fair use.

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 intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark

Panels have held that the use of a domain name for illegal activity as described above constitutes bad faith. [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. This is also reinforced by the fact that the Respondent, for the registration details of the disputed domain name, used the name of what could be a subsidiary of the Complainant.

### **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 <bacardi-group.com> be transferred to the Complainant.

*/Willem J. H. Leppink/*

**Willem J. H. Leppink**

Sole Panelist

Date: March 1, 2024