

ADMINISTRATIVE PANEL DECISION

Barry Callebaut AG and Barry Callebaut Belgium NV v. Danny Hood
Case No. D2025-1841

1. The Parties

The Complainants are Barry Callebaut AG, Switzerland, and Barry Callebaut Belgium NV, Belgium (hereinafter collectively “the Complainant”), represented by Adlex Solicitors, United Kingdom.

The Respondent is Danny Hood, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <barry-callibaut.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 8, 2025. On May 8, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 9, 2025, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 12, 2025, 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 May 14, 2025.

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 May 20, 2025. In accordance with the Rules, paragraph 5, the due date for Response was June 9, 2025.

On May 26, 2025, and June 5, 2025, the Center received email communications from a third party.

On June 13, 2025, the Center informed the Parties that it would proceed to the panel appointment.

The Center appointed Andrea Jaeger-Lenz as the sole panelist in this matter on June 20, 2025. 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 part of the Barry Callebaut international group of companies headquartered in Switzerland and engaged in the manufacturing of chocolate and cocoa products. The group to which the Complainant belongs procures, processes and supplies cocoa-based ingredients like cocoa powder, cocoa butter and chocolate to food manufacturers as well as to food service businesses. The group of the Complainant was established in 1996 following a merger of the French company Cacao Barry and the Belgian company Callebaut. It disposes more than 13,000 employees operating in over 40 countries and maintains more than 62 production facilities and 25 chocolate academy centers worldwide having generated annual sales of CHF 10.4 billion (approximately USD 11.7 Billion) as per exhibit 3 of the Complaint. The group of the Complainant counts many international subsidiaries according to exhibit 4 of the Complaint. The Complainant owns numerous trademark registrations worldwide including the following (as per exhibit 6 of the Complaint):

- International Registration No. 702211 BARRY CALLEBAUT (word), registered on September 4, 1998, for goods in Classes 29 and 30, with designations in numerous jurisdictions, including Australia, China, the European Union, or the United Kingdom; and
- United States trademark No. 2,320,385 BARRY CALLEBAUT (word), registered on February 22, 2000 for goods in Classes 29 and 30.

The main website of the group of the Complainant is accessible via the domain name <barry-callebaut.com> with approximately 4.7 million users and 16.3 million page views between March 2019 and February 2023 according to website statistics in exhibit 10 of the Complaint.

The disputed domain name was registered on April 11, 2025. There is no evidence that the disputed domain name has ever been used for a website.

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 that it has established registered and unregistered trademark rights in the brand BARRY CALLEBAUT based on the trademark registrations and its trading activities. The Complainant further contends that the disputed domain name is confusingly similar because it differs only by the substitution of the letter "i" in place of the letter "e" in the word "Callebaut", thus creating a misspelling of the Complainant's trademark BARRY CALLEBAUT. Complainant argues this has the potential to cause confusion with the Complainant's trademark both visually and phonetically.

The Complainant puts forth that there is no association between the Respondent and itself and that the Complainant has never authorized the Respondent's use of its trademarks. The Complainant further states that there is no evidence that the Respondent has ever used or been commonly known by the disputed domain. Given that there has never been any use of the disputed domain name for a website at all, the

Complainant finds that the Respondent is not commonly known by the disputed domain name and that there is no legitimate or fair use of the disputed domain name.

Finally, Complainant contends that the Respondent registered the disputed domain in bad faith. The Complainant argues for the application of the doctrine of “passive holding” detailed in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 3.3 and submits that the cumulative circumstances indicative of passive holding in bad faith are met, namely distinctiveness and fame of the Complainant’s trademark, plainly fraudulent intent behind a typo-squatting variation of the disputed domain name, and the implausibility of any good faith on the Respondent’s end.

B. Respondent

The Respondent did not reply to the Complainant’s contentions. On May 26, 2025, and June 5, 2025, the Center received email communications from a third party stating inter alia that the Respondent does not live at the address provided in the registration details for the disputed domain name and providing contact details.

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 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 Panel finds the mark is clearly recognizable within the disputed domain name, which differs from the Complainant’s trademark by only one letter. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Specifically, the disputed domain consists of a misspelling of Complainant’s mark. [WIPO Overview 3.0](#), section 1.9.

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 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 registered the disputed domain name nearly identical to the Complainant's trademark and official domain name. The Respondent has not made any use of the disputed domain name, commercial or otherwise.

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 found that the non-use of a domain name 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 composition of the disputed domain name, the Complainant's online presence and the lack of any response putting forward a legitimate non-infringing purpose. The Panel finds, in the circumstances of this case 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 <barry-callibaut.com> be transferred to the Complainant.

/Andrea Jaeger-Lenz/

Andrea Jaeger-Lenz

Sole Panelist

Date: July 2, 2025