

## **ADMINISTRATIVE PANEL DECISION**

Barilla G. e R. Fratelli S.p.A. v. Sergey Andreevich Mazur  
Case No. D2026-3277

### **1. The Parties**

The Complainant is Barilla G. e R. Fratelli S.p.A., Italy, represented by Studio Barbero S.p.A., Italy.

The Respondent is Sergey Andreevich Mazur, Ukraine.

### **2. The Domain Names and Registrar**

The disputed domain names <barilla-promo.shop> and <deutsche-barilla-glueckspost.win> are registered with Hosting Ukraine LLC (ua.ukraine) (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on July 24, 2026. On July 24, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 27, 2026, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Privacy Protection, Hosting Ukraine LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 27, 2026, 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 July 29, 2026.

On July 27, 2026, the Center informed the parties in Russian and English, that the language of the registration agreement for the disputed domain names is Russian. On July 29, 2026, the Complainant confirmed its request that English be the language of the proceedings. The Respondent did not submit any comment on the Complainant’s submission.

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 in Russian and English of the Complaint, and the proceedings commenced on August 5, 2026. In accordance with the Rules, paragraph 5, the due date for Response was August 25, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 26, 2026.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on September 1, 2026. 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 Italian company that manufactures and distributes pasta and related products by reference to the BARILLA trademark, and has done so for many years in many jurisdictions. The Complainant employs over 8,800 people and in 2025 had a turnover of EUR 4,837 million, with current foreign sales representing 64,5% of its total turnover. The Complainant operates in 28 countries directly, exports its products to over 100 countries and owns 30 production sites across 11 countries.

The Complainant is the registered owner of the BARILLA trademark as a word mark in many jurisdictions, including International Trademark Registration No. 675652 for BARILLA, registered on June 20, 1997 in classes 29 and 30, designating amongst others Ukraine; International Trademark Registration No. 1077405 for BARILLA, registered on April 7, 2011 in classes 29, 30, 31, 32, 33, 35, 41, 42 and 43, designating amongst others Ukraine; and European Union Trademark Registration No. 008585747 for BARILLA, filed on September 30, 2009 and registered on February 22, 2010, in classes 5, 29, 30, 31, 32, 33, 35, and 43.

The Complainant operates the website "www.barilla.com" as its web portal for global promotion of the BARILLA brand and products, whilst a website dedicated to the Barilla Group and all the related brands is available at "www.barillagroup.com".

The disputed domain names were both registered on June 15, 2026 and each resolve to an error page.

#### **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 names.

Notably, the Complainant contends that the disputed domain names incorporate the BARILLA registered word mark in its entirety, which will normally mean that they are identical or confusingly similar to that mark for purposes of UDRP standing. The addition of generic terms does not stand in the way of such a finding, the Complainant points out.

In relation to rights and legitimate interests, the Complainant states that the Respondent is not its licensee, nor an authorized agent nor in any other way authorized to use the Complainant's trademarks. The Complainant adds that the Respondent's name does not correspond to the terms encompassed in the disputed domain names, and the Respondent does not have any trademark rights in relation to BARILLA, since according to the Complainant a search for the Respondent's name on online trademark databases did not return any results for "barilla".

The Complainant points out that the disputed domain names resolve to error pages, and that panels have consistently held that passive holding of a domain name does not constitute a legitimate noncommercial or fair use. Prior to filing of the present Complaint, the Complainant has engaged a third-party agency to contact the Respondent. The Respondent has then requested USD 2,000, USD 200, and USD 250 for transfer of the disputed domain name <barilla-promo.shop>. The offer for sale of the disputed domain name <barilla-promo.shop> that is confusingly similar to the Complainant's prior trademark, for an amount exceeding out-of-pocket costs shows that the Respondent had no intention of use in connection with a bona fide offering of goods or services or for a legitimate noncommercial or fair use, as it intended to derive profits from the sale of a domain name corresponding to a third-party mark, the Complainant contends. The Respondent also did not respond to cease and desist notification, which the Complainant says can be construed as admission of what was claimed therein.

The Complainant then states that given its long and extensive use of the BARILLA trademark, it is inconceivable that the Respondent was unaware of the existence of the Complainant's registered and well-known trademark at the time it registered the disputed domain names. Further, the Complainant asserts that the Respondent offered the disputed domain name <barilla-promo.shop>, which contains the Complainant's BARILLA trademark, for sale for sums exceeding out of pocket expenses, conduct that amounts to bad faith. In the circumstances, the Complainant says that it deems paragraph 4(b)(i) of the Policy to be applicable in the present case since the Respondent registered the <barilla-promo.shop> domain name, and likely also the other disputed domain name, for the purpose of selling it/them to the Complainant for valuable consideration in excess of the Respondent's documented out-of-pocket costs.

In relation to the fact that the disputed domain names resolve to error pages, the Complainant points out that, in view of the distinctiveness and reputation of the Complainant's trademark, the Respondent's failure to provide any evidence of actual or contemplated good-faith use, and the implausibility of any good faith use to which the disputed domain names may be put in light of their composition, which clearly refers to promotions related to the BARILLA mark, the current resolution of the disputed domain names to error pages should not prevent a finding of bad faith use.

The Complainant concludes by saying that the configuration of MX records, and the failure of the Respondent to reply to cease and desist letters, are further indications of bad faith.

In relation to the language of the proceedings, given that the registration agreement is in Russian, the Complainant requests that this proceeding nonetheless be conducted in English. The Complainant points out that it communicates in English and would be prejudiced should it be required to translate the Complaint and participate in these proceedings in Russian. The Complainant contends that requiring it to translate the Complaint and all documents into Russian would cause delay in contravention to paragraph 10(c) of the Rules, which requires that "[t]he Panel shall ensure that the administrative proceeding takes place with due expedition". The Complainant adds that both disputed domain names are registered in Latin characters and include the English words "promo", "shop" and "win" (the last two as Top-Level Domains). On the instructions of the Complainant a domain broker also wrote to the Respondent in English requesting an indication of the conditions of a transfer, to which the Respondent replied with various sums, which indicates it understands the messages conferred to it in that language. The Complainant says that there are indications that the Respondent's email address belongs to a non-trading developer who published the GMG extension on the Google Chrome Web Store, where information and an example of the extension are provided in English and the language indicated in the "Details" section of the app description is English. Further, the Complainant indicates that the Respondent has posted on social media in English. Additionally, the Respondent made no requests relating to language when in receipt of the Complainant's cease and desist communications, nor in reaction to the present Complaint.

The Complainant concludes by pointing out that, since the actual registrant appears to be located in Ukraine, it should also be considered that, since Russian is not the mother language of either party, English would appear to be the fairest neutral language for rendering this Decision. The Complainant points to *Missoni S.p.A. v. Nurinet*, WIPO Case No. [D2010-1068](#), where the Panel adopted this "fairest neutral language" approach.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1. Procedural Issues**

#### **A. Location of the Respondent**

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceedings take place with due expedition.

The location of the Respondent disclosed by the Registrar appears to be in Ukraine, which is subject to an international conflict at the date of this Decision that may impact case notification. It is therefore appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceedings should continue.

Having considered all the circumstances of the case, the Panel is of the view that these proceedings should continue. The Respondent in the matter has in fact replied to previous correspondence in the English language from an agency recruited by the Complainant. There is no indication that electronic notification of the Complaint has not been successfully delivered to the Respondent's email address as provided by the Registrar. The Panel also notes that the disputed domain names were registered on June 15, 2026, over four years after commencement of the international conflict, indicating that the Respondent had the technical means to register the disputed domain names and communicate about them. In any case, the Panel has no serious doubt (albeit in the absence of any Response) that the Respondent registered and has used the disputed domain names which contain the highly distinctive trademark of the Complainant in bad faith.

#### **B. Language of the Proceedings**

The language of the Registration Agreement for the disputed domain names is Russian. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requests that the language of the proceedings be English for several reasons, including the fact that the Respondent replied to communications in English, seemingly having understood them, incorporated English terms in the disputed domain names, posted in English on social media, and did not choose to make a case for the proceedings to be conducted in Russian.

The Respondent did not make any submissions with respect to the language of the proceedings. Therefore, in the circumstances there are indications that the Respondent understands and can communicate in English. English therefore appears to be a fair language to adopt, allowing for the expedient conduct of these proceedings.

In exercising its discretion to use a language other than that of the registration agreement, 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 (see WIPO Overview of WIPO Panel Views on Select UDRP Questions (["WIPO Overview 3.1"](#)), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceedings shall be English.

## **6.2. Substantive Issues**

### **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 names. [WIPO Overview 3.1](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.2.1.

The registered trademark BARILLA of the Complainant is reproduced and recognizable within both disputed domain names. Although the addition of other terms, here, “-promo” and “deutsche-“ and “-glueckspost” respectively may bear on assessment of the second and third elements, the Panel finds the addition of these terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.1](#), 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 that 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 3.1](#), 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 names. 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 names such as those enumerated in the Policy or otherwise.

The Respondent is not commonly known by either disputed domain name nor by the term “barilla”, and there is no indication that the Respondent has trademark rights in that term. The disputed domain names resolve to error pages. They are composed of the Complainant's trademark associated with the selected descriptive terms “promo”, “deutsche-“, “-gluecks” and “post” (the latter three “German”, “luck” and “mail” in German, respectively) which, together with a Top-Level Domain “.win” may suggest a non-existent connection to the Complainant's sales efforts. So there is nothing that could indicate the adoption of the disputed domain names for a purpose other than to trade off the Complainant's rights under the Policy. The Respondent also offered to sell at least one of the disputed domain names to the Complainant for sums seemingly in excess of out-of-pocket expenses, which in the circumstances of this case does not support a finding of rights or legitimate interests. The Respondent did not reply to the cease and desist notifications of the Complainant nor participate in these proceedings, so never asserted any rights or legitimate interests.

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 registered two domain names that include the BARILLA registered trademark of the Complainant. This mark is distinctive, has been in use for many years, and represents one of the most high-profile brands in the pasta and related business in many jurisdictions. It is almost inconceivable that the disputed domain names were registered in ignorance of the Complainant or the goodwill that resides in its BARILLA mark. The composition of both disputed domain names hints at promotional and sales activity related to BARILLA products and further strengthens this conclusion. A simple Internet or trademark register search would have immediately identified the Complainant's rights in the mark BARILLA, including in Ukraine where it is registered.

Panels have found that the non-use of a domain name (including an error page as here) would not by itself prevent a finding of bad faith under the doctrine of passive holding. To the contrary, in looking at the totality of circumstances in each case, panels have found that the registration and non-use of a domain name can still constitute bad faith for purposes of the Policy. [WIPO Overview 3.1](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, the composition of the disputed domain names, and the Respondent's failure to submit a response, and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy. Further, the Respondent sought to sell the disputed domain name <barilla-promo.shop> to an agency hired by the Complainant. Acquisition and use of domain names targeting a trademark for the purpose of selling them to the trademark owner is manifest bad faith.

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 names <barilla-promo.shop> and <deutsche-barilla-glueckspost.win> be transferred to the Complainant.

*/William A. Van Caenegem/*

**William A. Van Caenegem**

Sole Panelist

Date: September 15, 2026