

ADMINISTRATIVE PANEL DECISION

**Barnes Europe Consulting Kft. and Ms. Heidi Barnes-Watson v.
Antoine Bauch
Case No. D2023-0711**

1. The Parties

Complainants are Barnes Europe Consulting Kft., Hungary and Ms. Heidi Barnes-Watson, United States of America, represented by Inlex IP Expertise, France.

Respondent is Antoine Bauch, Switzerland.

2. The Domain Names and Registrar

The disputed domain names <barnes-international.com> and <barnes-international.com> (“the Domain Names”) are registered with Register SPA the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 16, 2023. On February 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On February 17, 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) and contact information in the Complaint. The Center sent an email communication to Complainants on February 17, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainants to submit an amendment to the Complaint. Complainants filed an amended Complaint on February 20, 2023.

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 February 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 15, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 16, 2023.

The Center appointed Marina Perraki as the sole panelist in this matter on March 22, 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

Complainants are real estate agents doing business in respect of high-end properties around the world, including Europe and the United States of America. BARNES operates in over 15 countries and 60 destinations, with an integrated network of 90 agencies.

Complainants are the co-owners of various BARNES trademark registrations, including

- the French trademark registration BARNES (word) No. 3861673, registered on September 26, 2011, for services in international classes 36, 37 and 42; and
- the International trademark registration BARNES (word) No. 1114909, registered on March 13, 2012, for services in international classes 36, 37 and 42.

Per Complaint, Complainants also own the domain name <barnes-international.com>, registered on July 25, 2007, under which Complainants operate their official website.

The Domain Names were registered on November 25, 2022 and lead to inactive websites. The first Domain Name <barnes-international.com> leads to an error page with a warning message saying that access is forbidden and the second Domain Name <barnes-international.com> leads to a blank page. MX Records for the first Domain Name <barnes-international.com> have been activated.

5. Parties' Contentions

A. Complainant

Complainants assert that they have established all three elements required under paragraph 4(a) of the Policy for the transfer of the Domain Names.

B. Respondent

Respondent did not reply to Complainants' contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements, which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is 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 Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Consolidation: Multiple Complainants

The Complaint was filed by two Complainants against a single respondent. Complainants are the co-owners of BARNES trademark registrations. The Panel finds that Complainants have a specific common grievance against Respondent and that it would be equitable and procedurally efficient to permit the consolidation of their complaints. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.11.1. See also *Barnes Europe Consulting Kft. and Heidi Barnes-Watson v. Jianhua Wang*, WIPO Case No. [D2022-3059](#) and *Barnes Europe Consulting Kft., Heidi Barnes-Watson v. Privacy Service Provided by Withheld for Privacy ehf / Chris Byrd*, WIPO Case No. [D2022-1358](#).

B. Identical or Confusingly Similar

Complainants have demonstrated rights through registration and use on the BARNES mark.

The Panel finds that the Domain Names are confusingly similar with the BARNES trademark of Complainants.

The Domain Names incorporate the said trademark of Complainants in its entirety with different typographical errors of the word “international”. This is sufficient to establish confusing similarity (*Magnum Piering, Inc. v. The Mudjacks and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#)).

The addition of “interntional” or “interntional” in the Domain Names does not prevent a finding of confusing similarity as the BARNES mark remains clearly distinguishable ([WIPO Overview 3.0](#), section 1.9).

The generic Top-Level Domain (“gTLD”) “.com” is also disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons only (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#)).

The Panel finds that the Domain Names are confusingly similar with the BARNES trademark of Complainants.

Complainants have established Policy, paragraph 4(a)(i).

C. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel finds that Respondent lacks rights or legitimate interests in respect of the Domain Names.

Respondent has not submitted any response and has not claimed any such rights or legitimate interests with respect to the Domain Names. As per Complainants, Respondent was not authorized to register the Domain Names.

Prior to the notice of the dispute, Respondent did not demonstrate any use of the Domain Names or a trademark corresponding to the Domain Names in connection with a *bona fide* offering of goods or services.

On the contrary, the Domain Names are used for inactive websites.

Furthermore, there is no evidence on record giving rise to any rights or legitimate interests in the Domain Names on the part of Respondent within the meaning of paragraphs 4(c)(ii) and 4(c)(iii) of the Policy.

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Names.

Complainants have established Policy, paragraph 4(a)(ii).

D. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation”, are evidence of the registration and use of the Domain Names in “bad faith”:

(i) circumstances indicating that Respondent has registered or has acquired the Domain Names primarily for the purpose of selling, renting, or otherwise transferring the Domain Names registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Names; or

(ii) that Respondent has registered the Domain Names in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding Domain Names, provided that Respondent has engaged in a pattern of such conduct; or

(iii) that Respondent has registered the Domain Names primarily for the purpose of disrupting the business of a competitor; or

(iv) that by using the Domain Names, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes that Respondent has registered and used the Domain Names in bad faith.

Complainants’ mark BARNES is well-known in the field of luxury real estate services, as repeatedly recognised (*Barnes Europe Consulting Kft., and Heidi Barnes-Watson v. jianhua Wang*, WIPO Case No. [D2022-3059](#); *Barnes Europe Consulting Kft., Heidi Barnes-Watson v. Privacy Service Provided by Withheld for Privacy ehf / Chris Byrd*, WIPO Case No. [D2022-1358](#)).

As regards bad faith use, the Domain Names lead to inactive websites. The non-use of a domain name would not prevent a finding of bad faith (*Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); [WIPO Overview 3.0](#), section 3.3).

Complainants have established Policy, paragraph 4(a)(iii).

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, <barnes-intenational.com> and <barnes-interntional.com> be transferred to the First Complainant, Barnes Europe Consulting Kft.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: April 5, 2023