

## **ADMINISTRATIVE PANEL DECISION**

Barclays Bank UK PLC v. maxwell Okirie, the grace land  
Case No. D2023-4110

### **1. The Parties**

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

The Respondent is maxwell Okirie, the grace land, United Kingdom.

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

The disputed domain name, <barclaymarket.com> (the “Domain Name”), is registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 2, 2023. On October 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 4, 2023 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 October 5, 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 the Respondent of the Complaint, and the proceedings commenced on October 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 14, 2023.

The Center appointed Tony Willoughby as the sole panelist in this matter on December 3, 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

The Complainant is a longstanding British multinational banking and financial services company with headquarters in London. The Complainant is the registered proprietor of numerous trade mark registrations covering the names under and by reference to which it trades. Those registrations include the following United Kingdom registration:

Registration No. UK00001286579 incorporating a series of two marks, BARCLAY (word) and BARCLAYS (word) registered on March 3, 1989 in class 36 for financial services.

The Complainant operates its official website at “www.barclays.co.uk”.

The Domain Name was registered by the Respondent on February 1, 2023 and is connected to a website the home page of which features a “Barclays” logo in the top left hand corner and an invitation to visitors to register, providing their personal contact details, and to “Start Trading”. The background to the page is dominated by a large “Barclays FX” logo. At the foot of the home page, the following appears:

“Barclays Fx trading as CVF of Stock Group Limited is incorporated in UK, with registration number 13448726 authorised and regulated by the Financial Conduct Authority (FCA) and is [sic] also has a branch registered at 1276, Kumul Highway, Poert Vila, Vanuatu, Republic of Vanuatu.”

Section 4.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)) commences: “Noting in particular the general powers of a panel articulated *inter alia* in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision.”

The Panel decided to investigate the status of Stock Group Ltd (company number 13448726) by checking the publicly available online record held at the United Kingdom Companies registry. Stock Group Limited exists, but under a different company number. The company registered under number 13448726 is Live Stock Chart Ltd, which was dissolved via compulsory strike-off on December 20, 2022 six weeks prior to registration of the Domain Name.

The third paragraph of section 4.8 of [WIPO Overview 3.0](#) provides: “In some circumstances, a panel may also rely on personal knowledge (e.g., to take “judicial notice” of the reputation of a well-known mark, or a corporate affiliation/structure).” Given that the Panel and the parties are all, according to the case record, resident in the United Kingdom, the Panel takes judicial notice of the fact that the Complainant is a banking giant in the United Kingdom. It is inconceivable that anyone engaged in banking in the United Kingdom could be unaware of the fame of the Complainant’s brand in the United Kingdom in the field of financial services.

When registering the Domain Name the Respondent provided various contact addresses including a London address at a non-existent London street and with a postcode in Plymouth in the west of England and another postcode being the postcode for Buckingham Palace, the London home of King Charles III.

Had there been any scope for doubt as to the motives of the Respondent in registering and using the Domain Name, the Panel would have issued a procedural order inviting the parties to make submissions in relation to the results of the Panel's investigation into the status of Stock Group Limited and Stock Chart Ltd the company registered under no. 13448726 and the fact of the Panel's taking judicial notice of the fame of the Complainant in the financial services field in the United Kingdom. However, the fact that the Respondent gave false addresses when registering the Domain Name and has shown no interest in responding to any communication issued in the course of this proceeding persuades the Panel that it would be a futile gesture delaying the inevitable result.

## **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 Domain Name.

The essence of the Complainant's case is as set out in the following paragraphs from the Complaint:

"It is plain that the Respondent acquired the Domain Name for the purpose of unfairly disrupting the business of the Complainant by deceiving customers into believing that the Domain Name is one of the Complainant's official websites. The fact that the website associated with the Domain Name purportedly offers financial trading and investment services to customers is highly likely to confuse consumers into thinking that the Domain Name is registered to, operated or authorised by, or otherwise connected with the Complainant."

"The Domain Name has clearly been created to deceive customers that it is a domain which is connected to the Complainant leading to potential financial and personal information losses for Barclays' customers, causing significant disruption to the Complainant, its business and its reputation."

### **B. Respondent**

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

## **6. Discussion and Findings**

### **A. General**

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the Domain Name, the Complainant must prove each of the following, namely that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the 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.

### **B. Identical or Confusingly Similar**

The Domain Name comprises the Complainant's trademark BARCLAY followed by the dictionary word "market" and the ".com" generic Top Level Domain identifier.

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.

On the evidence before the Panel, the Panel finds 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 that the BARCLAY mark is recognizable within the Domain Name. Accordingly, the Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The addition of the dictionary word "market" does not affect that finding under this element of the Policy. In other circumstances it might have been a relevant consideration when considering the second and third elements, but not on the facts set out in section 4 above.

The Panel finds that the first element of the Policy has been established.

### **C. Rights or Legitimate Interests and D. Registered and Used in Bad Faith**

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 relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

In this case, the background facts are in the open and are as set out in section 4 above. They speak for themselves. There is no need for the Complainant to set out a *prima facie* case.

Domain name registrants intent on fraud invariably provide false contact information on registration of their domain names, as was the case here in respect of the Domain Name. While the Domain Name features the Complainant's primary trade mark, it is capable of innocent use unconnected with the Complainant (for example, by a street market operator named "Barclay"). However, it is in fact being used in connection with a purported business engaged in the provision of financial services, the same business area in which the Complainant is engaged, and through a website providing false information as to the identity of the operator of the website. It is not known how the Respondent is using the information it gains from visitors registering through the website, but the inescapable conclusion is that the Respondent's aim is fraudulent.

The Panel concludes on the basis of the evidence before it that the Complainant's primary contentions as set out in section 5A are well-founded. On no basis could such a registration and use of a domain name give rise to rights or legitimate interests in respect of that Domain Name or escape a finding that that this Domain Name has been registered and is being used in bad faith.

The Panel finds that the second and third elements of the Policy have been established.

## **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 Name, <barclaymarket.com>, be transferred to the Complainant.

*/Tony Willoughby/*

**Tony Willoughby**

Sole Panelist

Date: December 5, 2023