

## **ADMINISTRATIVE PANEL DECISION**

Williams-Sonoma, Inc. v. Domain Admin  
Case No. D2024-5314

### **1. The Parties**

Complainant is Williams-Sonoma, Inc., United States of America ("United States"), represented by Hanson Bridgett LLP, United States.

Respondent is Domain Admin, United States.

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

The disputed domain name <barkandgraham.com> is registered with Dynadot Inc (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 27, 2024. On December 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 27, 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") and contact information in the Complaint. The Center sent an email communication to Complainant on December 30, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on December 31, 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 Respondent of the Complaint, and the proceedings commenced on January 8, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 28, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on January 30, 2025.

The Center appointed Scott R. Austin as the sole panelist in this matter on February 3, 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

Without contest by Respondent, Complainant asserts in its Complaint as amended, and its Annexes attached provide a record sufficient to support that:

Complainant is a well-known home-goods retailer that sells its goods under a family of brands internationally through its retail stores and online, including “beautifully crafted gifts and home accessories” under the trademark MARK & GRAHAM (the “MARK & GRAHAM Mark”). Launched in 2012, Complainant’s products sold under the MARK & GRAHAM Mark have developed into “a leading monogramming lifestyle brand that offers personalized products and custom gifts”, Complainant’s products are also “known for high quality collections, ranging from home décor to handbags, which can be personalized with more than 100 exclusive monograms.”. Complainant’s MARK & GRAHAM branded products are exclusively sold and advertised on its official website at “www.markandgraham.com” (the “Official MARK & GRAHAM Mark Website”) accessed through its official domain name <markandgraham.com>, which Complainant registered on July 12, 2011.

Complainant also claims ownership in common law trademark rights for the trademark BARK & GRAHAM (the “BARK & GRAHAM Mark”) in connection with the expansion of its MARK & GRAHAM brand to include a line of personalized and monogrammed products for pets. Complainant shows its initial anticipation of this derivative brand to identify pet related products through an electronic copy of its pending application for United States trademark registration, Serial No. 98435205, for the BARK & GRAHAM Mark (“Application”), which Application was filed on March 5, 2024, and covers a wide range of pet products, including collars, dishes, and beds, as well as related online retail services. Complainant shows it announced the launch of this line of pet-oriented products on November 7, 2024, and shows it has used the BARK & GRAHAM Mark with a superscript “TM” with the Mark showing its designation of the mark for trademark use for the sale of its pet focused monogrammed products on its Official MARK & GRAHAM Mark Website since at least as early as November 2024. The Panel notes upon its own independent review<sup>1</sup> of the United States Patent and Trademark Office “(USPTO file record for the Application accessed on February 20, 2025, shows the Application was not challenged by the USPTO during the examination period or by any third party during the publication for opposition period, and a Notice of Allowance issued on February 18, 2025, leaving only the timely filing of a statement of use by Complainant for registration to issue. Numerous cases support a panel’s power to undertake such limited factual research and the Panel has, in its discretion, examined Respondent’s website as well as the USPTO database for the current status of Complainant’s trademark registrations and pending Application data.

Complainant shows in electronic copies of registrations in official trademark databases which the Panel has also independently reviewed to confirm that Complainant owns the MARK & GRAHAM Mark in over 30 jurisdictions worldwide, including the United States, Mexico, European Union, United Kingdom, Australia, China, and elsewhere covering a wide range of products and services, including the following:

---

<sup>1</sup> “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. This may include visiting the website linked to the disputed domain name in order to obtain more information about the respondent or its use of the domain name or accessing trademark registration databases.” WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.8. See e.g., *Humble Bundle, Inc. v. Domain Admin, Whois Privacy Corp.*, WIPO Case No. [D2016-0914](#); *Creative NetVentures, Inc. v. Webheads*, WIPO Case No. [D2000-1655](#).

1. United States Reg. No. 4,328,979, MARK & GRAHAM, registered on April 30, 2013, for a range of online retail store services and catalog mail order services featuring house wares in International Class 35, and a range of custom fabrication, monogramming, and production of house wares and home accessories services in International Class 40, claiming a first use date for each class of November 8, 2012;
2. United States Reg. No. 7,142,606, MARK & GRAHAM, registered August 22, 2023, for a range of home décor and houseware related products in International Classes 4, 9, 14, 16, 18, 20, 21, 24, 25, 27 and 28; and
3. United States Registration No. 7,378,729, MARK & GRAHAM, registered May 7, 2024, for a range of services in International Classes 35 and 40.

The disputed domain name was registered on March 6, 2024, one day after Complainant filed its Application for United States trademark registration of the BARK & GRAHAM Mark on March 5, 2024, making Complainant's Application publicly visible in the USPTO's online database. The disputed domain name resolved to a parked page with what is generally considered an inactive website as there is no active content or functionality beyond the sales pitch "This premium domain name is available for purchase!" adjacent to an advertisement for a secure purchasing service and a click through link that states "Buy now for USD 75,000", essentially a "domain parking" placeholder page with no operational website behind it.

## **5. Parties' Contentions**

### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name: that the disputed domain name is identical or confusingly similar to both Complainant's MARK & GRAHAM Mark and its BARK & GRAHAM Mark; that Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

Notably, Complainant contends that Respondent's registration of the disputed domain name over a decade after Complainant's first-filed United States registration for the MARK & GRAHAM Mark, and one day after Complainant filed the BARK & GRAHAM Application shows Respondent targeted both Marks based on Respondent's prior actual knowledge and constructive notice of Complainant's rights in its MARK & GRAHAM Mark and its BARK & GRAHAM Mark as part of a scheme to sell the disputed domain name to Complainant at an exorbitant price. Complainant further contends that Respondent is not affiliated with Complainant or any affiliate of Complainant, nor is Respondent authorized or licensed to use the MARK & GRAHAM Mark or the BARK & GRAHAM Mark, or any domain name incorporating or confusingly similar to Complainant's well-known brands.

### **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

Paragraph 15 of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable.

The onus is on Complainant to make out its case and it is apparent from the terms of the Policy that Complainant must show that all three elements set out in paragraph 4(a) of the Policy have been established before any order can be made to cancel a domain name. As the proceedings are administrative, the

standard of proof under the Policy is often expressed as the “balance of the probabilities” or “preponderance of the evidence” standard. Under this standard, an asserting party needs to establish that it is more likely than not that the claimed fact is true. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.2.

Thus, for Complainant to succeed it must prove within the meaning of paragraph 4(a) of the Policy and on the balance of probabilities that:

1. The disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
2. Respondent has no rights or legitimate interests in respect of the disputed domain name; and
3. The disputed domain name has been registered and is being used in bad faith.

The Panel finds that Complainant has met its burden in all three elements of the Policy and will deal with each of these elements in more detail below.

#### **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 Complainant’s trademarks and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Complainant has shown statutory rights in respect of a trademark or service mark for the purposes of the Policy for its MARK & GRAHAM Mark, and claims common law rights in the BARK & GRAHAM Mark. .

Regarding the MARK & GRAHAM Mark, ownership of a nationally registered trademark constitutes prima facie evidence that the complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Complainant claims trademark rights in the MARK & GRAHAM Mark for its personalized products and custom gifts and related services in its registrations for the MARK & GRAHAM Mark dating back to 2012. Sufficient evidence has been submitted in the form of electronic copies of valid and subsisting trademark registration documents in the name of Complainant and therefore, Complainant has demonstrated it has rights in the MARK & GRAHAM Mark. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#).

As for the BARK & GRAHAM Mark, while prior UDRP panels have made clear that a pending trademark application would not by itself establish trademark rights under the Policy (See [WIPO Overview 3.0](#), section 1.1.4.) Complainant has submitted sufficient evidence of use and extensive global promotion and advertising online as a spinoff of its well-known MARK & GRAHAM Mark for this Panel to reasonably conclude that trademark rights at common law have been accelerated and established as of the filing date of the Complaint.

The Panel notes that Complainant’s rights at common law have developed after registration of the disputed domain name, but this does not by itself preclude Complainant’s standing to file a UDRP case based on its BARK & GRAHAM mark, nor a panel’s finding of identity or confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.1.3. The Panel finds that the disputed domain name is identical to Complainant’s BARK & GRAHAM Mark.

Limitations on bad faith when the holder of the trademark or service mark acquired its rights post registration of the disputed domain name are relevant under the third element, as are the exceptions to those limitations, and the Panel will discuss those issue more appropriately under the second and third elements in sections B and C below based on Respondent’s registration of a disputed domain name identical to the BARK & GRAHAM Mark only one day after Complainant filed its Application for the BARK & GRAHAM Mark with the USPTO. See [WIPO Overview 3.0](#), sections 1.1.3 and 3.8.2.

The Panel finds the dominant portion of Complainant's registered MARK & GRAHAM Mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the MARK & GRAHAM Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Prior UDRP panels have held "in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing." See, *L'Oréal, Lancôme Parfums et Beauté & Cie v. Jack Yang*, WIPO Case No. [D2011-1627](#); see also, *Wal-Mart Stores, Inc. v. MacLeod d/b/a/ For Sale*, WIPO Case No. [D2000-0662](#).

A side-by-side comparison between the disputed domain name and Complainant's Mark shows the disputed domain name is almost identical to the MARK & GRAHAM Mark as well as the official domain name <markandgraham.com> used for Complainant's Official MARK & GRAHAM Mark Website. Complainant's MARK & GRAHAM Mark is incorporated in its entirety except for the substitution of the letter "m" with the letter "b" in Complainant's MARK & GRAHAM mark. Complainant's registered MARK & GRAHAM Mark remains recognizable in the disputed domain name, followed only by the generic Top-Level Domain ("gTLD") ".com". Prior UDRP panels have found the TLD, being viewed as a standard registration requirement, may typically be disregarded under the paragraph 4(a)(i) analysis. See, [WIPO Overview 3.0](#), section 1.11; see also *L'Oréal v. Tina Smith*, WIPO Case No. [D2013-0820](#). The substitution of the "&" symbol for "and" with the term spelled out in the disputed domain name is disregarded as a logogram which originated as a ligature of the letters of the word "et" and must be omitted due to the technical limitations in domain names prohibiting the use of certain symbols or characters.

Notably, Complainant also contends that Respondent's configuration of the disputed domain name replacing the "m" in "mark" to the "b" is typosquatting, a purposeful misspelling of Complainant's well-known MARK & GRAHAM Mark to confuse consumers which could be overlooked as a typo. Prior panels have held that a deliberate misspelling of a trademark registered as a domain name signals an intention on the part of the respondent to confuse Internet users, and must be confusingly similar by design. See [WIPO Overview 3.0](#), section 1.9.; See also *Allstate Insurance Company v. Rakshita Mercantile Private Limited*, WIPO Case No. [D2011-0280](#).

The Panel is not persuaded that these facts support application of typosquatting cases involving Internet users overlooking typical typographical errors such as an added "s" or an omitted second consonant. The cases cited by Complainant involve substituting internal, easily overlooked letters in a bank name or adding a hyphen between two words in a business name; but the words affected in each case remain the same as to meaning and pronunciation - the spelling errors would be easy to overlook. See *Wachovia Corporation v. Peter Carrington*, WIPO Case No. [D2002-0775](#) (<wochovia.com> as a misspelling of WACHOVIA mark); *Schneider Electric S.A. v. Domain Whois Protect Service / Cyber Domain Services Pvt. Ltd.*, WIPO Case No. [D2015-2333](#) (<schnieder-electric.com> as a misspelling of SCHNEIDER ELECTRIC mark). In contrast here, a letter substitution changing "mark" to "bark" creates a strikingly different word in sight sound and meaning. The Panel finds this distinction would not likely be viewed or overlooked as a typo by Internet users as in the cases cited above.

As noted above, however, the dominant feature of Complainant's MARK & GRAHAM Mark is recognizable within the disputed domain name and the Panel need not rely on a finding of typosquatting for Complainant to prevail on this element.

Based on the above, this Panel finds that neither the substitution of the letter "m" with the letter "b" to Complainant's registered MARK & GRAHAM Mark nor the gTLD ".com" would prevent a finding of confusing similarity between the disputed domain name and Complainant's trademark. Accordingly, the Panel finds the disputed domain name is confusingly similar to the MARK & GRAHAM Mark and identical to the BARK & GRAHAM Mark in which Complainant has rights and Complainant has satisfied its burden under the first element of the Policy.

## B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which 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 Respondent. As such, where a complainant makes out a prima facie case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to 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 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. See also, *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#).

Based on the available record, Complainant has established, prima facie, that Respondent lacks rights or legitimate interests in the disputed domain name. First, Complainant asserts that it has not licensed, or otherwise authorized Respondent to use the MARK & GRAHAM Mark in any manner, nor is Complainant in any way or manner associated with or related to Respondent. Complainant has also claimed with persuasive evidence submitted that Respondent is not commonly known by the disputed domain name because Respondent’s name, “Domain Admin” as reviewed by the Panel, clearly bears no resemblance to the terms “mark” or “graham”, the MARK & GRAHAM Mark, Complainant or the disputed domain name. The Panel finds that Respondent is not commonly known by the disputed domain name for purposes of the Policy. These facts support the panel’s finding that this is prima facie evidence that Respondent does not have rights or legitimate interests in the disputed domain name under Paragraph 4(c)(ii) of the Policy. See *Compagnie de Saint Gobain v. Com-Union Corp.*, WIPO Case No. [D2000-0020](#); *Cellular One Group v. Paul Brien*, WIPO Case No. [D2000-0028](#).

Complainant also shows that Respondent has not used the disputed domain name in connection with a bona fide offering of goods and services because as noted above in section 4, it resolves to a website not offering any goods or services beyond the sales pitch “This premium domain name is available for purchase!” adjacent to an advertisement for a secure purchasing service and a click through link that states “Buy now for USD 75,000”.

Complainant also contends that Respondent’s demonstrated conduct—offering the disputed domain name for sale to the general public at USD 75,000—is prima facie evidence that Respondent does not have rights or legitimate interests in the disputed domain name. The Panel finds it so especially considering the composition of the disputed domain name, and the fact the disputed domain name was registered just one day after Complainant’s filing of the BARK & GRAHAM Mark before the USPTO, making Complainant’s Application publicly visible in the USPTO’s online database. Prior UDRP panels have held that to take advantage of an association with the trademark of another for the purposes of sale to a third party does not provide a legitimate interest in that domain Name. See *BMW AG v. Vergis*, WIPO Case No. [D2017-0071](#).

The record establishes Complainant’s prima facie showing. Respondent has provided no basis upon which that showing may be overcome. The Panel finds Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, so as to confer rights or legitimate interests in it in accordance with paragraph 4(c)(i) of the Policy. Complainant has successfully met its burden under paragraph 4(a)(ii) of the Policy.

## C. Registered and Used in Bad Faith

Finally, Complainant must prove, by a preponderance of the evidence, that the disputed domain name has been registered and used in bad faith under paragraph 4(a)(iii) of the Policy. See, *Hallmark Licensing, LLC v. EWebMall, Inc.*, WIPO Case No. [D2015-2202](#).

Paragraph 4(b) of the Policy sets out a non-exhaustive list of circumstances that point to bad faith conduct on the part of a respondent. The panel may, however, consider the totality of the circumstances when analyzing bad faith under Policy, paragraph 4(a)(iii) and may make a finding of bad faith that is not limited to the enumerated factors in Policy, paragraph 4(b). See, *Do the Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#).

First, this Panel has found in Section 4 above from the record submitted that the MARK & GRAHAM Mark is registered worldwide, and widely known around the world. Based on the uncontested record, considering: 1) that the MARK & GRAHAM Mark is advertised and promoted both online at Complainant's Official MARK & GRAHAM Mark Website accessed through <markandgraham.com>, and through Complainant's facilities at locations around the world, 2) its MARK & GRAHAM trademark registration predates by 13 years Respondent's registration of the disputed domain name, 3) the disputed domain name incorporates the predominant portion of the MARK & GRAHAM Mark in its entirety, and 4) Respondent's registration of the disputed domain name <barkandgraham.com> only one day after Complainant filed its application to register BARK & GRAHAM as a United States trademark publicly viewable with the USPTO as a pet focused version of its well-known MARK & GRAHAM Mark for monogrammed and pet name identified products, the Panel finds Respondent has no credible argument that they were unaware of the MARK & GRAHAM Mark when registering the disputed domain name. See, *Alstom v. Domain Investments LLC*, WIPO Case No. [D2008-0287](#); see also *Accor S.A. v. Kristen Hoerl*, WIPO Case No. [D2007-1722](#).

Prior UDRP panels have also found that where, as here, it would be implausible to believe that Respondent selected and was using the disputed domain name for any other purpose than to trade on Complainant's trademark rights and reputation, it establishes a fact pattern that repeatedly has been held to constitute bad faith registration. See *Houghton Mifflin Co. v. Weathermen, Inc.*, WIPO Case No. [D2001-0211](#); see also *Philip Morris Incorporated v. Alex Tsykin*, WIPO Case No. [D2002-0946](#). The Panel finds, therefore, that Respondent had actual knowledge of the MARK & GRAHAM Mark, as well as Complainant's BARK & GRAHAM Application and that Respondent has targeted Complainant's Marks in registering the disputed domain name in bad faith. See *Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#).

Although Complainant's BARK & GRAHAM Mark had not yet registered at the time the disputed domain name was registered, the Panel finds it likely that Respondent was aware of and intended to exploit Complainant's anticipated launch of its new product when he registered the disputed domain name on March 6, 2024, thereby evidencing bad faith. Respondent's selection and registration of a domain name identical to Complainant's prospective brand name set forth in Complainant's application for United States trademark registration the day after Complainant filed its Application with the USPTO simply seems too extraordinary to be a mere coincidence.

Prior UDRP panels have recognized bad faith registration in anticipation of a complainant's trademark rights later accruing. [WIPO Overview 3.0](#), section 3.8.2 ("As an exception to the general proposition ... in certain limited circumstances where the facts of the case establish that the respondent's intent in registering the domain name was to unfairly capitalize on the complainant's nascent (typically as yet unregistered) trademark rights, panels have been prepared to find that the respondent has acted in bad faith."). This specifically includes the respondent's registration of a domain name "in connection with a product launch" or "following the complainant's filing of a trademark application." *Id*

As prior UDRP panels have noted, what actually matters here is (a) whether at the time of registration of the domain name the relevant term embodied in the domain name was being (or about to be) used in a trademark sense by the complainant and (b) whether the domain name was registered with knowledge of that use and with the intention of taking advantage of the reputation that had or would attach to that term by reason of that use. See, e.g., *BML Group Limited v. Rikard Beach, Proxy My Whois AB*, WIPO Case No. [D2015-1897](#).

The evidence in this proceeding suggests that this was precisely the case here: Respondent more likely learned of Complainant's plans to create a new spinoff brand for its product line for pets, using a mark derived from its already well known MARK & GRAHAM Mark; Respondent registered its domain name exactly matching the brand Complainant was developing (*i.e.*, the disputed domain name <barkandgraham.com> that is identical to terms that were filed with the USPTO in its application with an intent to be used in a trademark sense by Complainant); and Respondent registered the disputed domain name likely with knowledge of that impending trademark use and with the intention of taking advantage thereof. The Panel finds, based on all the available evidence, that Respondent obtained the disputed domain name to gain a commercial advantage over Complainant, by disrupting Complainant's ability to register a key domain name matching its new mark and later offering the disputed domain name for sale to third parties at a price likely to be in excess of its out of pocket cost.

These activities by Respondent fit within the scenario under UDRP paragraph 4(b)(i) and more generally constitute registration and use in bad faith within the meaning of the Policy, taking into consideration the non-exhaustive factors described above as applied to the facts present in this case. Accordingly, under these circumstances, including the adverse inferences drawn by Respondent's failure to respond, its use of an identity shield, the Panel finds that Complainant has met its burden, establishing by a preponderance of the evidence, that Respondent registered and used the disputed domain name in bad faith. [WIPO Overview 3.0](#), section 3.1.1; see also *Oculus VR, LLC v. Lin*, WIPO Case No. [DCO2016-0034](#).

Complainant has satisfied 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 <barkandgraham.com> be transferred to Complainant.

*/Scott R. Austin/*

**Scott R. Austin**

Sole Panelist

Date: March 2, 2025