

ADMINISTRATIVE PANEL DECISION

Barrick Gold of North America, Inc. and Barrick Gold Corporation v. Jimmy Sancho, Crustertrade
Case No. D2025-0177

1. The Parties

The Complainant is Barrick Gold of North America, Inc., United States of America (“United States”), and Barrick Gold Corporation, Canada, represented by Dorsey & Whitney, LLP, United States.

The Respondent is Jimmy Sancho, Crustertrade, Brazil.

2. The Domain Name and Registrar

The disputed domain name <barrickfolio.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 January 16, 2025. On January 17, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 17, 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, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 23, 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 January 29, 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 January 30, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 19, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 21, 2025.

The Center appointed Gonalo M. C. Da Cunha Ferreira as the sole panelist in this matter on February 26, 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 Barrick Gold of North America, Inc., along with its parent company, affiliates, and subsidiaries, including the Co-Complainant (Barrick Gold Corporation), compose one of the largest global conglomerates engaged in gold mining and exploration.

The Co-Complainant holds, among others, the following trademark registrations:

- United States Registration No. 4,578,245 for the word and device mark BARRICK, registered on August 5, 2014, in Classes 37 and 42;
- Canadian Registration No. TMA860535 for the word and device mark BARRICK, registered on September 18, 2013, in Classes 35, 36, 37, 40 and 42;
- European Union Trade Mark No. 008890386 for the word mark BARRICK, registered on August 10, 2010, in Classes 6, 14, and 37 (the "BARRICK Marks").

The Complainant, the Co-Complainant, and their affiliated entities have used the BARRICK Marks continuously in connection with gold and copper mining, as well as related goods and services, in more than 13 countries since at least 1983. Since 1995, the Complainant, the Co-Complainant, and their affiliates have operated the domain name <barrick.com> to promote and advertise mining services, business ventures, and other commercial initiatives under the BARRICK Marks.

The disputed domain name was registered on October 21, 2024.

Although the disputed domain name does not currently resolve to an active website, it has previously directed users to a site offering online cryptocurrency trading and investment services, purportedly designed to collect information by requesting personal login credentials.

5. Parties' Contentions

A. Complainant

The Complainants (hereinafter referred to jointly as "the Complainant") contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

1. it advertises and promotes its goods and services online using the Barrick Marks since 1995;
2. its affiliates have used the website "www.barrick.com" to advertise and promote a variety of mining services, business initiatives, and other commercial endeavors involving the BARRICK Marks;
3. due to its success in the mining of gold and other precious metals, the Complainant has developed tremendous goodwill and name recognition amongst a large base of commercial and consumer industries, including the banking industry, and professional and personal investment communities;
4. the disputed domain name is confusingly similar to the Complainant's BARRICK Marks, its associated domain name, and the use by the Complainant's licensees, affiliates, and subsidiaries around the world;
5. the disputed domain name consists of the Complainant's BARRICK Mark, immediately followed by a merely descriptive term "folio", which can be used to immediately identify one of the sectors in which the Complainant operates;
6. the Respondent is using the disputed domain name in manner that is likely to cause confusion;

7. the addition of the “.com” generic Top-Level Domain (“gTLD”) to the disputed domain name is also insignificant and does nothing to remove the likelihood of confusion between the BARRICK Marks;
8. the disputed domain name is likely to cause consumers to mistakenly believe that the Respondent is affiliated with, endorsed by, or sponsored by the Complainant, or that the Respondent’s use of the disputed domain name is authorized by the Complainant;
9. the Respondent cannot demonstrate it has any rights or legitimate interests in the disputed domain name;
10. the use of the BARRICK Marks dates back to at least as early as 1983 and its earliest registration for the BARRICK Marks issued on September 18, 2013, both of these dates predate the Respondent’s registration of the disputed domain name by nearly four decades, as the disputed domain name was not registered until October 2024;
11. the Complainant registered its own domain name <barrick.com> on October 6, 1995, and has been using that domain name ever since;
12. the Respondent is not a licensee of the Complainant, nor has the Complainant otherwise authorized the Respondent to register the disputed domain name or otherwise use the Complainant’s BARRICK Marks;
13. as of December 4, 2024, the Respondent’s current use of the disputed domain name displays the Complainant’s BARRICK Mark, followed by the descriptive term “folio”, at the top of the page in connection with a webpage that offers online cryptocurrency trading and investment services;
14. the webpage to which the disputed domain name resolves contain several images related to gold and has the current price of the Complainant’s own stock, GOLD, included as one of the “investments” users can make;
15. given the Complainant’s relation to the gold industry, it can only be assumed such choice of graphics and coloring was intentionally chosen to create a link between the Respondent and the Complainant, which does not exist;
16. the use of the Complainant’s BARRICK mark followed by the descriptive word “folio” implies a connection with the financial field which the Complainant operates in;
17. the home page of the disputed domain name prompts consumers to login, which requires input of a username and password, or to register, which also requires the user to provide crypto addresses, emails, and full names;
18. the Respondent’s use of the disputed domain name is attempting to confuse consumers into believing the website is an affiliated or sponsored website in order to obtain confidential information;
19. the Respondent is not making a legitimate or fair use of the disputed domain name;
20. it is inconceivable that the Respondent registered the disputed domain name containing the Complainant’s well-known and distinctive BARRICK trademark without the intent of capitalizing on the goodwill the Complainant owns in the BARRICK Marks; and,
21. the Respondent undoubtedly registered the disputed domain name with the specific intent to cause consumer confusion and to free ride on the vast, internationally-recognized goodwill associated with the Complainant’s BARRICK Marks and/or for the purpose of creating the false impression that the Respondent is member, licensee, or representative of the Complainant.

B. Respondent

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

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here, “folio”, may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), 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 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.

Panels have held that the use of a domain name for illegitimate activity, here, claimed phishing, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. In any event, the Panel finds the composition of the disputed domain name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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 observes that the Respondent registered the disputed domain name with the specific intent to cause consumer confusion and to free ride on the vast, internationally recognized goodwill associated with the Complainant’s BARRICK Marks. Furthermore, the Respondent’s actions appear to be aimed at creating the false impression that he is a member, licensee, or representative of the Complainant. Moreover, the Respondent’s use of the disputed domain name is attempting to confuse consumers into believing that the websites are affiliated with or sponsored by the Complainant, in order to obtain confidential information or otherwise commercially benefit from creating a likelihood of confusion with the BARRICK Marks.

Panels have held that the use of a domain name for illegitimate activity, here, claimed phishing, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes 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 <barrickfolio.com> be transferred to the Complainant.

/Gonçalo M. C. Da Cunha Ferreira/

Gonçalo M. C. Da Cunha Ferreira

Sole Panelist

Date: March 12, 2025