

ADMINISTRATIVE PANEL DECISION

Barrick Gold of North America, Inc. and Barrick Gold Corporation v. Jonathan Davis

Case No. D2025-0178

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 Jonathan Davis, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <barrcik.com> is registered with NameCheap, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 24, 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 December 16, 2024.

As of January 9, 2025, Respondent’s use of the disputed domain name displayed a website page that lists the disputed domain name and a note that “This domain has recently been registered with Namecheap.” The Complainant provided evidence that the disputed domain name was also used as part of an email phishing scheme wherein the Respondent impersonated an executive of the Complainant.

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, which merely has a small misspelling, where the “i” and the “c” have been swapped, and such typo squatting does not diminish the likelihood of confusion;

6. the Respondent is using the disputed domain name in manner that is likely to cause confusion;
7. the addition of the descriptive, non-distinctive “.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 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 January 9, 2025, the Respondent’s use of the disputed domain name displays a website page that lists the disputed domain name and a note that “This domain has recently been registered with Namecheap”;
14. the Respondent is not just sitting on the disputed domain name – it is using it in an active email phishing campaign in an attempt to induce payment or engagement from the Complainant’s customers or vendors and is doing so by impersonating the current Senior Executive Vice-President and Chief Financial Officer of the Complainant by using his name and signature block;
15. the Respondent is using the email address associated with the disputed domain name to send out fake requests to confirm remittances using the Complainant’s BARRICK Marks and purporting to be the Complainant;
16. the Respondent sends several emails seeking confirmation of payment, and then eventually indicates payment was sent to the wrong account, and the payment needs to be refunded for tax reasons;
17. the Respondent is not making a legitimate or fair use of the disputed domain name and has instead used the disputed domain name with the intent to mislead the Complainant’s target market for commercial gain through intentionally misleading itself as affiliated with, connected to, or endorsed by the Complainant;
18. it is inconceivable that the Respondent registered the domain name containing the Complainant’s well-known and distinctive BARRICK Marks without the intent of capitalizing on the goodwill the Complainant owns in the BARRICK Marks;
19. the Respondent is using the real name and position of the Complainant’s executive in the signature block of the phishing email; and,
20. 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, which the Respondent is not.

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 Panel finds the mark is recognizable 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.

In examining the elements of the disputed domain name, the Panel points out that the presence of a misspelling, specifically the transposition of the letters “i” and “c”, is relevant. According to section 1.9 of the [WIPO Overview 3.0](#), minor alterations, such as typographical errors, do not prevent a finding of confusing similarity where the domain name contains sufficiently recognizable aspects of the relevant mark – as is the case here.

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 and impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 notes that the Respondent registered the disputed domain name with the specific intent to cause consumer confusion and to free ride on the 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, which the Respondent is not.

There is clear evidence that the Respondent registered the disputed domain name with the intent to attract consumers by creating a likelihood of confusion with the Complainant’s BARRICK Marks, as the domain

name is confusingly similar to the Complainant's well-established trademark. This action aligns with the fourth example of bad faith conduct, as the Respondent is using the disputed domain name in phishing schemes to impersonate a senior executive and mislead the Complainant's customers for commercial gain.

Panels have held that the use of a domain name for illegitimate activity, here, claimed phishing and impersonation/passing off, 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 <barrcik.com> be transferred to the Complainant.

/Gonçalo M. C. Da Cunha Ferreira/

Gonçalo M. C. Da Cunha Ferreira

Sole Panelist

Date: March 12, 2025