

## **ADMINISTRATIVE PANEL DECISION**

Barrick Gold of North America, Inc. and Barrick Gold Corporation v. Private Whois

Case No. D2025-0916

### **1. The Parties**

The Complainants are Barrick Gold of North America, Inc. and Barrick Gold Corporation, United States of America ("US"), represented by Dorsey & Whitney, LLP, US.

The Complainant, Barrick Gold of North America, Inc. and the co-Complainant, Barrick Gold Corporation are collectively herein, referred to as "the Complainant."

The Respondent is Private Whois, Hong Kong, China.

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

The disputed domain names <barrickchs.com> and <barrickvip.com> are registered with Cosmotown, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 5, 2025. On March 5, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 8, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (REDACTED FOR PRIVACY/Unknown Registrant) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 10, 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 March 14, 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 March 19, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 8, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 9, 2025.

The Center appointed Shwetasree Majumder as the sole panelist in this matter on April 15, 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, is engaged in the business of gold mining operations in the world under its trademark BARRICK. The Complainant owns a large portfolio of BARRICK marks around the world, including US, Canada and the European Union ("EU"). Details of a few such trademark registrations is as below:

- BARRICK – US Registration No. 6225225 registered on December 22, 2020 in classes 6, 14, 37, and 42;
- BARRICK & Design mark – US Registration No. 6592636 registered on December 21, 2021 in classes 14, 37, and 42;
- BARRICK – EU Trademark Registration No. 008890386 registered on August 10, 2010 in classes 6, 14, and 37; and
- BARRICK & Design mark – US Registration No. 4578245 registered on August 5, 2014 in classes 37, and 42.

The Complainant's main business website is "www.barrick.com" and this domain name has been registered since the year 1995.

The disputed domain names <barrickchs.com> and <barrickvip.com> were registered on November 8, 2024, and October 30, 2024 respectively. Presently, the disputed domain names do not resolve into any active website. But it is worth noting that in December 2024, the Respondent's websites at both the disputed domain names displayed the Complainant's registered BARRICK & Design mark. Further, the Respondent's websites had a login window requiring a cell phone number and a password, and also offered the opportunity to sign up for an account. The disputed domain name <barrickchs.com> resolved to the above described webpage in English and whereas the disputed domain name <barrickvip.com> resolved to an identical page in Arabic.

It is noteworthy that, the Respondent's website at the disputed domain name <barrickchs.com> has resulted in actual confusion and fraud; where an Internet user entered information and money on the Respondent's website mistaking it to be the Complainant's website.

It is also worth noting that the disclosed registrant is a privacy service. Further, the Registrar has confirmed to the Centre they are not in possession of any underlying contact information beyond the privacy service.

#### **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 disputed domain names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to the trademark of the Complainant. The Complainant states that additions of the letters "vip" and "chs" do nothing to distinguish the disputed domain names from the Complainant's mark BARRICK.

The Complainant argues that it has used the trademark BARRICK in connection with gold and copper mining and precious metal goods and services in over 13 countries since at least as early as 1983. The Complainant argues its mark BARRICK enjoys substantial goodwill around the world. The Complainant contends that it has been using its domain name <barrick.com> since the year 1995, whereas the Respondent registered the disputed domain names only in the year 2024.

The Complainant argues that its trademark registrations and prominent usage of its mark, provide the Respondent with constructive knowledge of the Complainant's ownership of its mark BARRICK. Further, the Complainant states that the Respondent is not a licensee of the Complainant, nor has the Complainant otherwise authorized the Respondent to register the disputed domain names or otherwise use the Complainant's mark BARRICK. The Complainant argues that the Respondent has not used the disputed domain names for any bona fide offering of goods/services.

The Complainant argues, the Respondent's intention is to induce Internet users into entering their personal and financial information on its websites for fraudulent purposes. The Complainant contends that the Respondent has already successfully confused consumers into believing the disputed domain names are the Complainant's legitimate websites. In support of this allegation, the Complainant has pointed to an instance of actual confusion and defrauding of a Complainant's customer. The Complainant contends that panels have found similar schemes to be evidence of bad faith for which no right or legitimate interest may exist.

The Complainant argues that the Respondent's use of the disputed domain names is clearly attempting to pass off as the Complainant itself or at least an affiliate of the Complainant, by inducing actual customers of the Complainant to enter their confidential login information.

## **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 names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of letters "vip" and "chs" may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names 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 with 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 names. 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 names such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegitimate activity such as fraud, impersonation of the complainant can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names. The Panel is aware that presently the disputed domain names do not have any hosted content. However, The Panel finds that the Respondent’s websites on the disputed domain names in the past, were clearly aimed at defrauding Internet users and inducing them into entering their personal and financial information. The Panel agrees with the Complainant such schemes are evidence of bad faith for which no right or legitimate interest may exist.

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 was well aware of the Complainant’s trademarks while registering the disputed domain names. The Respondent’s conduct of using the Complainant’s BARRICK & Design mark on its websites for impersonating the Complainant with an attempt to defraud Internet users amounts to registration and use of the disputed domain names in bad faith. Particularly, the Complainant has provided evidence showing that, the Respondent’s website at the disputed domain name <barrickchs.com> has resulted in actual confusion and fraud; where an Internet user entered information and money on the Respondent’s website mistaking it to be the Complainant’s website.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegitimate activity such as fraud, impersonation of the complainant 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 names constitutes bad faith under the Policy.

The Panel finds the Respondent’s conduct of using a privacy service for registering the disputed domain names in order to conceal its identity is also probative of bad faith.

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 names <barrickchs.com> and <barrickvip.com> be transferred to the Complainant.

*/Shwetasree Majumder/*

**Shwetasree Majumder**

Sole Panelist

Date: May 1, 2025