

ADMINISTRATIVE PANEL DECISION

Barry Callebaut AG, Barry Callebaut Belgium NV v. GUNTER KARIM
Case No. D2025-0925

1. The Parties

The Complainants are Barry Callebaut AG, Switzerland and Barry Callebaut Belgium NV, Belgium, represented by Adlex Solicitors, United Kingdom.

The Respondent is GUNTER KARIM, United States of America

2. The Domain Name and Registrar

The disputed domain name <barry-calelbaut.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 6, 2025. On March 6, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 6, 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 (Domain Administrator, See PrivacyGuardia.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 7, 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 10, 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 10, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 30, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 31, 2025.

The Center appointed Alvaro Loureiro Oliveira as the sole panelist in this matter on April 14, 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 Complainants in this case are Barry Callebaut AG, a company incorporated in Switzerland, and Barry Callebaut Belgium NV, a company incorporated in Belgium. Both Complainants are part of the Barry Callebaut international group of companies (the "Group"). The Group specializes in the production and marketing of high-quality chocolate and cocoa products.

Barry Callebaut AG (the "First Complainant") was incorporated on December 13, 1994 and Barry Callebaut Belgium NV (the "Second Complainant") on December 15, 1989. The Group has traded under the trade name and trademark "Barry Callebaut" at least since 1996.

While the Group owns a number of other marks, as stated by exhibit 6 to the Complaint, "Barry Callebaut" is the house mark, identifying many of the Group's bulk cocoa products such as cocoa powder, cocoa butter and chocolate and it is also generally displayed in conjunction with each of the Group's other brands.

The First Complainant, the Group's holding company, owns an extensive international portfolio of registered trademarks for the term "Barry Callebaut". The Second Complainant is the main trading company for chocolate within the Group.

The Complainants are hereinafter collectively referred to as the "Complainant".

The Complaint is based on several registered trademarks that are used in connection with the production and sale of chocolate and cocoa products, among which one should mention:

- Swiss Trademark BARRY CALLEBAUT Reg. No. 453449 registered on July 28, 1998, in classes 29 and 30.
- Swiss Trademark BARRY CALLEBAUT Reg. No. 561861 registered on September 6, 2007, in classes 5, 29, and 30.

The disputed domain name <barry-callebaut.com> was registered on January 17, 2025 and resolved to parking page with pay-per-click ("PPC") links. According to exhibit 13 to the Complaint, mail exchange ("MX") records had been set up to enable email services.

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 name.

Notably, the Complainant states that the disputed domain name is confusingly similar to the trademark - in fact, the disputed domain name includes the trademark in its entirety - it differs only by the switching of the letters "l" and "e" in the word Callebaut thus creating a misspelling of the Complainant's trademark BARRY CALLEBAUT, reading "*Barry-Calelbaut*".

This has potential to cause confusion with the Complainant's trademark both visually and phonetically. The letters switching has no effect whatsoever in distancing the disputed domain name from the registered trademark.

The Respondent has no rights nor legitimate interests in the disputed domain name, whereas the Respondent has not acquired any trademark rights with respect to the disputed domain name. As stated by the documents presented, the registration and use of the trademark BARRY CALLEBAUT predates the registration of the disputed domain name in several decades.

Moreover, the Respondent is not commonly known by the disputed domain name. The Respondent has also not secured a license nor any other authorization from the Complainant to use the trademark.

The disputed domain name resolves to a parking page comprising PPC links, which leads to conclude that the disputed domain name has been used with commercial purposes. Lastly, MX records have been set up to enable email services.

In sum, the Complainant alleges that the Respondent has no rights or legitimate interests in the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

The Policy, in its paragraph 4(a), determines that three elements must be present and duly proven by a complainant to obtain relief. These elements are:

- i. the disputed 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 to the disputed domain name; and
- iii. the disputed domain name has been registered and is being used in bad faith.

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 Panel finds that the Complainant has shown sufficient registered rights in respect of a trademark BARRY CALLEBAUT 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, with the switching of the letters "l" and "e" in the word Callebaut, which could be considered as typosquatting, as the practice is an intentional misspelling of the trademark. [WIPO Overview 3.0](#), section 1.9.

The Panel finds that the disputed domain name contains sufficiently recognizable aspects of the Complainant's trademark BARRY CALLEBAUT, with an obvious potential to cause confusion with the Complainant's trademark both visually and phonetically.

Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy, and thus 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.

Given the clear evidence that the trademark BARRY CALLEBAUT is registered in the name of the Complainant and is widely known as identifying the Complainant’s activities, that the Complainant has not licensed this to the Respondent, and evidence that the Respondent is using the disputed domain name in connection with a PPC links scheme, the Panel finds that the Complainant has established prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the Complainant has established prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. In the absence of a Response, the Respondent has not rebutted such prima facie case.

The Panel, thus, finds for the Complainant under the second element of the Policy.

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.

The misspelling of the disputed domain name points towards the Respondent’s likely intent to give the impression that the disputed domain name is associated with the Complainant. In the absence of any reasonable explanation for the selection of the disputed domain name by the Respondent, and in the circumstances of this case, the Panel finds it is more likely than not that the disputed domain name has been registered to take unfair advantage, due to its value as a trademark owned by the Complainant.

The fact that the disputed domain name resolves to a website displaying PPC links to third party sites, supports a finding of bad faith use in these circumstances. Furthermore, the evidence suggests that the Respondent’s actions may cause illegal activity, as the disputed domain name has been set up with MX records configured for potential fraudulent use.

Considering also that the Respondent engaged in the typosquatting practice of the Complainant’s trademark BARRY CALLEBAUT, it is clear that the Respondent was out for commercial gain, by registering and using the disputed domain name to confuse, attract and profit from the Complainant’s customers by impersonating the Complainant.

Panels have held that the use of a domain name for illegal activity here, claimed impersonation or 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.

Accordingly, 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 <barry-callebaut.com> be transferred to the First Complainant Barry Callebaut AG.

/Alvaro Loureiro Oliveira/

Alvaro Loureiro Oliveira

Sole Panelist

Date: May 1, 2025