

ADMINISTRATIVE PANEL DECISION

G.& G. srl v. Alois Buchholz, de de
Case No. D2025-1127

1. The Parties

The Complainant is G.& G. srl, Italy, represented by Leexè Studio Legale, Italy.

The Respondent is Alois Buchholz, de de, Germany.

2. The Domain Name and Registrar

The disputed domain name <baracutagermany.com> is registered with Hongkong Kouming International Limited (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 19, 2025. On March 19, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 29, 2025, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On April 2, 2025, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On April 3, 2025, the Complainant confirmed its request that English be the language of the proceeding and provided additional arguments. The Respondent did not submit any comment on the Complainant’s submission.

The Center verified that the 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 in Chinese and English of the Complaint, and the proceedings commenced on April 4, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 24, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 27, 2025.

The Center appointed Douglas Clark as the sole panelist in this matter on May 6, 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 the owner of the BARACUTA brand, which was established in Manchester in 1937 by the Miller Brothers. BARACUTA gained popularity in the 1950s through distribution in the United States of America (“United States”) and Hollywood exposure, and in subsequent decades was adopted by youth subcultures including Mods, Skinheads, Punks, and Rockers. The brand celebrated its 70th anniversary in 2007, reappearing in popular culture in major films and in collaboration with famous brands.

BARACUTA is now considered one of the most iconic brands in menswear history, with international recognition supported by extensive media coverage in fashion and mainstream publications. The Complainant asserts that the BARACUTA mark is widely known and famous worldwide.

The Complainant is the owner of numerous BARACUTA trademark registrations in Italy, the United Kingdom, the European Union, the United States, and other jurisdictions, with the earliest registered in the United Kingdom on May 10, 1947.

The Complainant’s trademarks registrations include the following:

Trademark	Jurisdiction	Registration No.	Registration Date	Nice classification
BARACUTA	United Kingdom	659010	May 10, 1947	Class 25
BARACUTA	United States	1148995	March 24, 1981	Class 25
BARACUTA	Hong Kong, China	300401976	August 18, 2005	Class 25
BARACUTA	European Union	00263251	September 9, 1998	Class 25

The Complainant also owns multiple domain names incorporating the BARACUTA mark, including the official website at “www.baracuta.com”.

The Respondent is under the name “Alois Buchholz, de de” and provides an address in Germany. The Respondent registered the disputed domain name on November 30, 2024.

At the time the Complainant became aware of the disputed domain name, it resolved to a website displaying the Complainant’s trademark BARACUTA with the same advertising images or very similar ones, to promote and offer for sale prima facie counterfeit BARACUTA products, advertised and offered for sale at greatly discounted prices, without any disclaimer provided as to the lack of affiliation between the Respondent’s website and the Complainant.

As of April 4, 2025, the use of the disputed domain name has been suspended and the Respondent’s website became inaccessible. Such was the case at the date of this Decision.

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 contends that:

- a) The disputed domain name is confusing similar to the Complainant's trademarks in which the Complainant has rights.
- b) The Respondent has no rights or legitimate interests in respect of the disputed domain name.
- c) The disputed domain name was registered and is being used in bad faith.

The Complainant requests that if the Panel finds in their favour the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that (i) the Respondent does not have any obvious connection to the location of the Registrar or the Chinese language (it has a German name, appears to be based in Germany and the infringing website is in the German language with the only accepted currency being Euro), yet chose to register the disputed domain name with a Registrar that operates exclusively in Chinese, demonstrating an intention to complicate and delay the resolution of proceedings; (ii) English is the most practical and neutral language as it is an international language suitable for transnational disputes. Moreover, it is used within the disputed domain name; and (iii) given the Respondent's behaviour consistent with cybersquatting practices, it is unduly onerous on the Complainant to have to bear additional costs and delays in translating the Complaint.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, noting in particular the lack of reaction from the Respondent after having been given a fair chance to comment, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

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 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 BARACUTA 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 the geographical term “Germany” and the suffix “.com” 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 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.

First, the Complainant’s registrations for the BARACUTA trademark across multiple jurisdictions including Hong Kong, China and the European Union constitute prima facie evidence of its rights to the trademark. Whereas the Respondent has no connection or affiliation with the Complainant and has not received any license or consent, express or implied, to use the BARACUTA marks in a domain name or in any other matter.

Second, there is no evidence suggesting that the Respondent is commonly known by the name “Baracuta” which suggests a lack of legitimate rights and interests in the disputed domain name.

Third, the Respondent’s registration of the disputed domain name on November 30, 2024, came significantly after the Complainant’s registration of its BARACUTA mark in multiple jurisdictions and particularly in Hong Kong, China and the European Union. Prior to the Respondent’s registration of the disputed domain name, the Complainant’s trademarks have enjoyed a high degree of fame and reputation which the Respondent was not authorized to use.

Panels have held that the use of a domain name for impersonation and sale of counterfeit goods 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.

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.

As stated above, the Panel notes that the disputed domain name was registered long after the Complainant's registrations internationally, and particularly in Hong Kong, China and the European Union, of the trademark BARACUTA, which is well known worldwide and has been used for decades. The fact that the BARACUTA trademark was displayed on the Respondent's commercial website where purported BARACUTA products were offered for sale indicates that the Respondent was aware of the existence of the Complainant's trademark, the BARACUTA brand and its distinct reputation when it registered the disputed domain name. As such, the Respondent's use of these trademark in the disputed domain name cannot be a coincidence and was intended to divert Internet users to the website under the disputed domain name.

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 <baracutagermany.com> be transferred to the Complainant.

/Douglas Clark/

Douglas Clark

Sole Panelist

Date: May 20, 2025