ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION

Barnes Europe Consulting Kft., Heidi Barnes-Watson v. Alexandria Barnes, Barnes Realty Investments
Case No. D2025-2321

1. The Parties

The Complainant is Barnes Europe Consulting Kft. and Heidi Barnes-Watson, Hungary, represented by MIIP MADE IN IP, France.

The Respondent is Alexandria Barnes, Barnes Realty Investments, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <barnesrealtyinvestments.com> is registered with Squarespace Domains II LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 13, 2025. On June 13, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 13, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 17, 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 June 19, 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 June 25, 2025. In accordance with the Rules, paragraph 5, the due date for Response was July 15, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 16, 2025.

The Center appointed Kaya Köklü as the sole panelist in this matter on July 21, 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 First Complainant is a company which operates a real estate agency business with operations in 15 countries. The Second Complainant is the group's founder.

The Complainants jointly hold registrations for the trademark BARNES in numerous jurisdictions. Among others, the Complainants are the registered owners of the United States Trademark Registration No. 6855266, registered on September 27, 2022, for BARNES, covering protection for various services as covered by classes 35, 36, 37, 39 and 42.

The Complainants further own and operate various domain names comprising their BARNES trademark, such as <barnes-international.com> and <barnes-investment-realty.com>.

The Respondent is reportedly located in the United States.

The disputed domain name was registered on April 1, 2025.

Furthermore, the Complainants provided unrebutted evidence that the Respondent has configured an MX email server for the disputed domain name, which enables the Respondent to send and receive emails using the disputed domain name.

According to the case record, the disputed domain name has apparently not yet been linked to an active website but resolves to a landing page indicating that the disputed domain name is under construction.

5. Parties' Contentions

A. Complainants

The Complainants contend that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

6.1. Consolidation of Complainants

The Complaint contains a request for consolidation of the First and Second Complainant.

The Panel notes that the Complainants co-own the BARNES trademark upon which this proceeding is based. This constitutes a specific common grievance of the Complainants against the Respondent. Taking also into consideration that the Respondent has not rebutted the requested consolidation, it is in view of the Panel fair and equitable in the circumstances of the case to order the consolidation as requested (section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0")).

Consequently, the Panel accepts the First and Second Complainant in this administrative proceeding and, for the ease of reference, will jointly refer to them as "the Complainant" in the following, whenever appropriate.

6.2. Substantive Issues

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

(i) the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights;

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. D2007-1228.

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the WIPO Overview 3.0.

For the evaluation of this case, the Panel has taken note of the WIPO Overview 3.0, and, where appropriate, will decide consistently with the consensus views stated therein.

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 the BARNES trademark 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 "realty" and "investments", 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. in the absence of a response, 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.

Even more and bearing in mind that the Respondent has configured an MX email server for the disputed domain name, the Panel cannot exclude that the disputed domain name may have been used or will be used in connection with possibly fraudulent or illegitimate activities by the Respondent. Noting that the disputed domain name is confusingly similar to the Complainant's BARNES trademark and also its official domain name <barnes-investment-realty.com>, the Panel has no doubt that the Respondent's intent is to create confusion with the Complainant, which in view of the Panel results in an illegitimate use that can never confer rights or legitimate interests upon the Respondent. Moreover, regarding the similarities between the named registrant and the disputed domain name, the Panel notes that there is no evidence in the record that the Respondent is commonly known by the disputed domain name for the purposes of the Policy, and in the circumstances of this case it appears the choice of registration details is most likely an attempt to impersonate or otherwise falsely suggest affiliation with the Complainant.

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.

In the present case, the Panel notes that the Respondent must have had the Complainant and its BARNES mark in mind when registering the disputed domain name, particularly considering the inherently misleading composition of the disputed domain name, which comprises the Complainant's BARNES mark in its entirety and is also almost identical to the Complainant's domain name <barnes-investment-realty.com>. It is obvious to the Panel that the Respondent has deliberately chosen the disputed domain name to target the Complainant.

As regards bad faith use, the Panel notes that the disputed domain name has apparently not yet been used with active content, except for a landing page indicating that the website is under construction. In line with previous UDRP decisions (e.g., *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003) and section 3.3 of the WIPO Overview 3.0, the Panel believes that such non-use (at least in terms of original content being hosted) of a domain name does not prevent a finding of bad faith use.

Rather, the Panel believes that the inherently misleading nature of the disputed domain name and the active MX email server create a real or implied ongoing threat to the Complainant, since the disputed domain name, even if currently resolving to a landing page which is under construction only, may be used by the Respondent to mislead customers looking for the Complainant, for example in false belief that an email sent from the disputed domain name originates from the Complainant, probably for phishing or other fraudulent activities.

The Panel accepts the failure of the Respondent to submit a substantive response to the Complainant's contentions as an additional indication for bad faith.

All in all, 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 <barnesrealtyinvestments.com> be transferred to the Complainant.

/Kaya Köklü/
Kaya Köklü
Sole Panelist
Date: August 4, 2025