

## **ADMINISTRATIVE PANEL DECISION**

CBOCS Properties, Inc. v. Clayton Quisenberry  
Case No. D2025-2684

### **1. The Parties**

The Complainant is CBOCS Properties, Inc., United States of America ("United States"), represented by Dinsmore, United States.

The Respondent is Clayton Quisenberry, United States.

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

The disputed domain name <crackerbarrel400.com> is registered with GoDaddy.com, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 8, 2025. On July 9, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 9, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 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 July 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 July 11, 2025. In accordance with the Rules, paragraph 5, the due date for Response was July 31, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 5, 2025.

The Center appointed Michelle Brownlee as the sole panelist in this matter on August 8, 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 a Michigan corporation and owns all of the intellectual property used by Cracker Barrel Old Country Store, Inc. which has been operating a nationwide chain of restaurants and retail gift shops across the United States for more than 50 years.

The Complainant owns the following United States trademark registrations for the CRACKER BARREL trademark:

Registration Number 3,886,461, registered on December 7, 2010, for restaurant services in international class 43; and

Registration Number 3,900,702, registered on January 4, 2011, for retail gift shops services in international class 35.

Both of these registrations claim a first use dating back to September 18, 1969.

The disputed domain name was registered on May 23, 2025. It resolves to a page that says “Launching Soon Contact Us Drop us a line!” and has blanks to fill in for name, email address and a message.

#### **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 the disputed domain name is confusingly similar to the Complainant’s CRACKER BARREL trademark, that the Respondent has no rights to or legitimate interests in the disputed domain name and that the Respondent registered and is using the disputed domain name in bad faith. The Complainant notes that in April 2025, a short time prior to the registration of the disputed domain name, it was publicly announced that the Complainant’s CRACKER BARREL mark would be used in the name of the 2025 NASCAR Cup Series race to take place at the Nashville Superspeedway, entitled the “Cracker Barrel 400”. The Complainant contends that the disputed domain name was registered with an intention to trade off the Complainant’s name and reputation and was being used in a way that is likely to attract Internet users who are looking information about the Complainant or the NASCAR race that the Complainant is sponsoring, and that the site operated by the Respondent asking users to enter in their name and email address is likely to be used for fraud or identity theft.

##### **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 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, “400”, may bear on assessment of the second and third elements, the Panel finds the addition of such term 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.

Panels have held that the use of a domain name for illegitimate activity, here, claimed fraud or identity theft, 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 a short time after the announcement of a NASCAR race named the “Cracker Barrel 400”. This demonstrates that the Respondent was aware of the Complainant’s trademark rights and the Complainant’s association with the event. The Panel finds that the Respondent’s use of the disputed domain name in connection with a web site that collects personal information violates paragraph 4(b)(iv) of the Policy in that it appears to be an intentional attempt to attract Internet users for commercial gain by creating a likelihood of confusion with the Complainant’s CRACKER BARREL mark.

Panels have held that the use of a domain name for illegitimate activity, here, claimed fraud or identity theft 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 <crackerbarrel400.com> be transferred to the Complainant.

*/Michelle Brownlee/*

**Michelle Brownlee**

Sole Panelist

Date: August 18, 2025