

## **ADMINISTRATIVE PANEL DECISION**

Waterfall Asset Management, LLC v. Bruce  
Case No. D2025-3920

### **1. The Parties**

Complainant is Waterfall Asset Management, LLC, United States of America ("United States"), represented by Faegre Drinker Biddle & Reath LLP, United States.

Respondent is Bruce, United States.

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

The disputed domain name <waterfallcapital.org> 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 September 25, 2025. On September 26, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 26, 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 (NY, US) and contact information in the Complaint. The Center sent an email communication to Complainant on October 3, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on October 7, 2025.

The Center verified that the Complaint together with the amendment to 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 Respondent of the Complaint, and the proceedings commenced on October 13, 2025. In accordance with the Rules, paragraph 5, the due date for Response was November 2, 2025. Respondent sent an email communication to the Center on October 16, 2025, asking if anything is needed on its end regarding renewal of the disputed domain name. On November 7, 2025, the Center informed the Parties that it would proceed with panel appointment.

The Center appointed Frederick M. Abbott as the sole panelist in this matter on November 12, 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

Complainant is a limited liability company organized under the laws of the State of Delaware, United States, with principal office in New York, New York, United States. Complainant provides financial services in the fields of asset management, investment management and real estate funds investment. Complainant operates a commercial website at “www.waterfallam.com”. Complainant was founded in 2005. It has more than 150 employees across its offices in New York, London and Dublin. Complainant states that it has about USD 13 billion assets under management. Complainant periodically issues public news releases regarding its financial services activities.

Complainant is the owner of registration of the word service mark WATERFALL on the Principal Register of the United States Patent and Trademark Office (USPTO), registration number 6,093,443, registration dated July 7, 2020, in international class (IC) 36, covering financial services, as further specified. Complainant also is the owner of registration on the trademark registry of the United Kingdom Intellectual Property Office (UKIPO) for the word trademark WATERFALL, registration number UK00801414424, registration dated January 4, 2019, in IC 36. Complainant is the owner of registration for the word trademark WATERFALL on the registry of the Intellectual Property Department of Hong Kong, China, registration number 305981293, registration dated June 10, 2022, in IC 36, covering financial services, as further specified.<sup>1</sup>

According to the Registrar’s verification, Respondent is registrant of the disputed domain name. According to the Whois report, the disputed domain name was initially registered on November 3, 2022.

Respondent has used the disputed domain name to direct Internet users to a website prominently showing the term WATERFALL and a logo similar to that used by Complainant affixed to an office building. Alongside the photograph there is text that states “Established in 2019 to help facilitate the continued growth of US businesses, WaterFall Capital (WFC) currently manages a diversified portfolio of business loans using our unique WaterFall Strategy™.” The homepage further states that Respondent has 21 team members, and that it has funded “\$200M+”. Respondent’s “About Us” webpage lists a substantial number of employees, along with titles and photographs. A separate “Testimonials” page includes first names and company names of presumed clients. There are tabs for prospective clients to “get started”. There is a “Contact us” box that requests name, email, phone number and subject, along with space for a message. There is a “Partners” page that indicates funding of “500+” businesses, with an 89% approval rate, and “\$650K average approval”. Complainant has provided evidence (in the form of a Google Map search result) that the address listed for Respondent at its website is a modest convenience store advertising lottery tickets in the window. In addition, Complainant has provided substantial evidence compiled through various search methodologies, including LinkedIn queries, that the individuals listed on Respondent’s website are fictitious, or in any event do not evidence an association with Respondent’s purported business.

By letter of October 29, 2024, in response to communication from Complainant of October 18, 2024, regarding the disputed domain name, Respondent through counsel offered Complainant to “consider changing its name” for the sum of USD 1,000,000.

There is no evidence on the record of this proceeding of any association, commercial or otherwise, between Complainant and Respondent.

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<sup>1</sup>Complainant has submitted a self-described Declaration by its Chief Operating Officer, General Counsel and Chief Compliance Officer restating asserted trademark rights to his personal knowledge. The Panel draws no evidentiary inferences from this declaration.

## 5. Parties' Contentions

### A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, Complainant contends that it owns rights in the trademark WATERFALL and that the disputed domain name is confusingly similar to its trademark.<sup>2</sup>

Complainant alleges that Respondent lacks rights or legitimate interests in the disputed domain name because: (1) Respondent has not been commonly known by the disputed domain name; (2) Respondent is neither using the disputed domain name in connection with a bona fide offering of goods or services, nor is it making a legitimate noncommercial or fair use of Complainant's trademark; (3) Respondent uses Complainant's trademark on its website yet fails to include a disclaimer of affiliation with Complainant; (4) Respondent's use of fictitious employees to suggest the provision of bona fide services is evidence of a lack of rights or legitimate interests; (5) despite having constructive notice of Complainant's trademark, Respondent proceeded to register the disputed domain name confusingly similar to Complainant's trademark, and; (6) Complainant has not in any manner authorized Respondent to use its trademark.

Complainant argues that Respondent registered and is using the disputed domain name in bad faith because: (1) Complainant acquired rights in its trademark long before Respondent registered the disputed domain name; (2) the display of fake employee profiles is evidence of Respondent's bad faith; (3) the address listed on Respondent's website is not associated with Respondent's alleged business; (4) Respondent's website requests Internet users to provide contact information to apply for financial services; (5) Respondent has configured mail exchange (MX) records in association with the disputed domain name; (6) Respondent's offer to sell the disputed domain name for a price far in excess of its out of pocket expenses is evidence of bad faith, and; (7) registration of the disputed domain name confusingly similar to Complainant's trademark absent association with Complainant is evidence of bad faith.

Complainant requests the Panel to direct the Registrar to transfer the disputed domain name to Complainant.

### B. Respondent

Apart from the email communication dated October 16, 2025, as mentioned under section 3, Respondent did not reply to Complainant's contentions.

## 6. Discussion and Findings

The Center formally notified the Complaint to Respondent at the email and physical address provided in its record of registration. Respondent's email to the Center effectively confirmed receipt of notice. The Center took those steps prescribed by the Policy and the Rules to provide notice to Respondent, and those steps are presumed to satisfy notice requirements.

Paragraph 4(a) of the Policy sets forth three elements that must be established by a complainant to merit a finding that a respondent has engaged in abusive domain name registration and use and to obtain relief. These elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which complainant has rights; and
- (ii) 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.

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<sup>2</sup>The Panel uses the term "trademark" in its inclusive sense, to cover both goods and services marks.

## **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 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.

Complainant has shown rights in respect of the trademark WATERFALL 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 another term, here "capital", 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. <sup>3</sup> [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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on Complainant, panels have recognized that proving 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 Respondent. As such, where Complainant, as here, makes out a prima facie case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on Complainant). If Respondent, as here, fails to come forward with such relevant evidence, Complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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.

Respondent's use of the disputed domain name in connection with a website purportedly operated by WaterFall Capital that identifies financial services similar to those provided by Complainant, deceptively displaying Complainant's trademark on an office building apparently not associated with Respondent, using an address for a modest convenience store, and listing purportedly nonexistent employees, does not constitute a bona fide offering of goods or services, or fair use of the disputed domain name which is confusingly similar to Complainant's trademark. Respondent has not responded to the Complaint and has not provided any plausible justification for its use of Complainant's trademark in the disputed domain name or on Respondent's website.

Respondent's registration and use of the disputed domain name does not otherwise suggest rights or legitimate interests.

The Panel finds the second element of the Policy has been established.

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<sup>3</sup>Respondent's use of the generic Top-Level Domain ("gTLD") ".org" does not affect the confusing similarity analysis for purposes 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.

In the present case, the Panel notes that Respondent registered the disputed domain name after Complainant registered its trademark, and substantially after Complainant began using its trademark. Complainant is known by its trademark in the field of financial services, which is the same field in which Respondent is purporting to offer services. A basic Internet search by Respondent prior to registration of the disputed domain name would have identified Complainant and its trademark. Particularly given the confusingly similar use to which Respondent has put the disputed domain name in relation to Complainant, the Panel on balance of probabilities concludes that Respondent at minimum would have come across Complainant's trademark when it registered and used the disputed domain name.

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 Respondent's registration and use of the disputed domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Moreover, Respondent without disclaiming affiliation with Complainant or its trademark used the disputed domain name in connection with a website purporting to offer financial services similar to those offered by Complainant. Respondent attempted to convey the appearance of an established business enterprise by incorporating a photograph of an office building displaying Complainant's trademark, using names and photographs of purportedly nonexistent employees, and providing an address for a modest convenience store. Respondent sought contact information from Internet users through its website. Respondent for commercial gain, registered and used the disputed domain name to create Internet user confusion as to Complainant acting as source, sponsor, affiliate or endorser of its website, establishing bad faith registration and use within the meaning of paragraph 4(b)(iv) of the Policy.

Moreover, in the context of the confusingly similar and deceptive use of Complainant's trademark in the disputed domain name and associated website, Respondent's offer to change its name for the amount of USD 1,000,000 – a thinly veiled offer to sell or transfer the disputed domain name to Complainant and to eliminate infringing content - further evidences bad faith.

The Panel finds that 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 <waterfallcapital.org> be transferred to Complainant.

*/Frederick M. Abbott/*

**Frederick M. Abbott**

Sole Panelist

Date: November 25, 2025