

ADMINISTRATIVE PANEL DECISION

Burrow, Inc. v. Tayler Khan
Case No. D2026-0094

1. The Parties

Complainant is Burrow, Inc., United States of America, represented by Havenly Brands, United States of America.

Respondent is Tayler Khan, United States of America.

2. The Domain Name and Registrar

The Disputed Domain Name <burrowmodern.com> is registered with Cosmotown, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 9, 2026. On January 12, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On January 15, 2026, 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 (unknown) and contact information in the Complaint. The Center sent an email communication to Complainant on January 16, 2026, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on January 16, 2026.

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 Respondent of the Complaint, and the proceedings commenced on January 21, 2026. In accordance with the Rules, paragraph 5, the due date for Response was February 10, 2026. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on February 20, 2026.

The Center appointed Richard W. Page as the sole panelist in this matter on March 3, 2026. 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

Complaint operates a successful online furniture retail business under the BURROW brand utilizing its primary website <burrow.com>. Complainant is well-known in the retail direct-to-customer furniture industry for its modern, modular furniture designs.

Complainant is the owner of the registered trademark BURROW (the "BURROW Mark") filed with the United States Patent and Trademark Office ("USPTO") Registration No. 5183579 registered on April 11, 2017 in international class 35. Complainant has used the BURROW Mark in commerce since at least January 13, 2017.

The BURROW Mark was registered on April 11, 2017 and has been in continuous use since January 13, 2017. Complainant has built substantial goodwill and reputation in the BURROW brand through its successful online retail furniture business at <burrow.com>.

The Disputed Domain Name was registered on December 17, 2025 and resolves to a website sponsored by Respondent containing many of the elements of Complainant's official website.

5. Parties' Contentions

A. Complainant

Complainant contends that the Disputed Domain Name is confusingly similar to the BURROW Mark, because it incorporates the BURROW Mark in its entirety, merely adding the generic/descriptive term "modern" as a suffix. Complainant further contends that the word "modern" is particularly deceptive in this context because Complainant's furniture business specializes in modern furniture design. The combination of "burrow" and "modern" creates a domain name that consumers would readily associate with Complainant's furniture business.

Complaint submits that it has not authorized, licensed, or otherwise permitted Respondent to use the BURROW Mark or to register any domain name incorporating the BURROW Mark. Respondent is not an authorized dealer, distributor, or affiliate of Complainant.

Complainant further submits that Respondent is not commonly known by the names "Burrow" or "Burrow Modern" and has not acquired any trademark or service mark rights in either of those names.

Complainant further submits that Respondent is using the Disputed Domain Name to operate a fraudulent website that mimics Complainant's legitimate retail furniture business in an effort to deceive consumers and defraud Complainant's customers. The website to which the Disputed Domain Name resolves is designed to mislead consumers into believing they are purchasing furniture from Complainant when they are not. Such use is impersonation of a legitimate business and does not constitute a bona fide offering of goods or services or a legitimate non-commercial or fair use under the Policy.

Complainant alleges that the Disputed Domain Name was registered more than eight years after the BURROW Mark. The timing demonstrates that the Respondent had constructive, if not actual, knowledge of Complainant's rights in the BURROW Mark.

Complainant further alleges that the use by Respondent of “burrow” and “modern” demonstrates that Respondent was specifically targeting Complainant’s brand and business.

Complainant further alleges that Respondent’s website at <burrowmodern.com> is a near-exact copy of Complainant’s legitimate website at <burrow.com>. Respondent’s website, among other things: (1) prominently displays the BURROW Mark in its header navigation, identical to Complainant’s website; (2) uses Complainant’s exact tagline: “We make furniture that works harder, so you can live easier”; (3) uses the same product categories, including “Modular Seating”, “Sleeper Sofas”, “Outdoor Essentials”, “Storage”, and “Dining”; and (4) uses the product imagery and page layout that appear to be copied directly from Complainant’s website.

Complainant further alleges that it has received multiple inquiries from customers seeking information about Respondent’s website and believing it to be affiliated with or operated by Complainant. Customers have reported that Respondent’s site is “selling your furniture for 70% off”. One customer explicitly identified it as “a fake site called burrow modern”. Respondent further alleges that such activity is a violation of paragraph 4(b)(iv) of the Policy and constitutes bad faith registration and use.

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: “A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable.”

Even though Respondent has failed to file a Response or to contest Complainant’s assertions, the Panel will review the evidence proffered by Complainant to verify that the three essential elements of the claims are met. WIPO Overview of WIPO Panel Views on Select UDRP Questions, ([“WIPO Overview 3.1”](#)), section 4.3.

Paragraph 4(a) of the Policy directs that Complainant must prove each of the following three elements:

- i) that the Disputed Domain Name registered by the Respondent is identical or confusingly similar to the BURROW Mark in which Complainant has rights; and
- ii) that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- iii) that the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

[WIPO Overview 3.1](#), section 1.2.1 states that registration of the BURROW Mark is prima facie evidence of Complainant having enforceable rights in the BURROW Mark.

Complainant has shown rights in respect of the BURROW Mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.2.1.

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 BURROW Mark and the Disputed Domain Name. [WIPO Overview 3.1](#), section 1.7.

The entirety of the BURROW Mark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the BURROW Mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.7.

Although the addition of other terms, here the word “modern”, 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 BURROW Mark for the purposes of the Policy. [WIPO Overview 3.1](#), 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 the Disputed Domain Name.

Paragraph 4(c) of the Policy allows three nonexclusive methods for the Panel to conclude that Respondent has rights or a legitimate interest in the Disputed Domain Name:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a bona fide offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Disputed Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the BURROW Mark.

Although the overall burden of proof in UDRP proceedings is on Complainant, panels have recognized that proving that Respondent lacks rights or legitimate interests in the Disputed 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 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 Disputed Domain Name (although the burden of proof always remains on Complainant). If Respondent fails to come forward with such relevant evidence, Complainant is deemed to have satisfied the second element. [WIPO Overview 3.1](#), 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.

Panels have held that the use of the Disputed Domain Name for illegitimate activity, here claimed as phishing, impersonation and fraud can never confer rights or legitimate interests on Respondent. [WIPO Overview 3.1](#), 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 the Disputed Domain Name in bad faith.

Paragraph 4(b) of the Policy sets forth four nonexclusive criteria for Complainant to show bad faith registration and use of the Disputed Domain Name:

(i) circumstances indicating that you [Respondent] have registered or you have acquired the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Disputed Domain Name registration to Complainant who is the owner of the BURROW Mark or to a competitor of Complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the Disputed Domain Name; or

(ii) you [Respondent] have registered the Disputed Domain Name in order to prevent the owner of the BURROW Mark from reflecting the BURROW Mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you [Respondent] have registered the Disputed Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the Disputed Domain Name, you [Respondent] have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the BURROW Mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product on your website or location.

In the present case, the Panel notes that Respondent created the impression that his website was affiliated with or operated by Complainant. Customers reported that Respondent's site is "selling your furniture for 70% off". The Panel finds that these facts meet the criteria of paragraph 4(b)(iv) of the Policy and are deemed to be in bad faith.

Panels have held that the use of the Disputed Domain Name for illegitimate activity, here claimed to be phishing, impersonation and fraud, constitutes bad faith. [WIPO Overview 3.1](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the Disputed Domain Name constitutes bad faith under the Policy.

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 <burrowmodern.com> be transferred to the Complainant.

/Richard W. Page/

Richard W. Page

Sole Panelist

Date: March 10, 2026