ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION
CBOCS Properties, Inc. v. Harold Salazar
Case No. D2026-1744

1. The Parties

The Complainant is CBOCS Properties, Inc., United States of America ("United States" or ("U.S.")), represented by Dinsmore & Shohl LLP, United States.

The Respondent is Harold Salazar, United States.

2. The Domain Name and Registrar

The disputed domain name <crackerbarral.com> (the "Disputed Domain Name") is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 23, 2026. On April 24, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On April 27, 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 (REDACTED FOR PRIVACY PRIVACY SERVICE PROVIDED BY WITHHELD FOR PRIVACY EHF) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 28, 2026, 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 April 28, 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 the Respondent of the Complaint, and the proceedings commenced on April 29, 2026. In accordance with the Rules, paragraph 5, the due date for Response was May 19, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 20, 2026.

The Center appointed Douglas M. Isenberg as the sole panelist in this matter on May 26, 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

The Complainant states that it "owns all of the intellectual property used by Cracker Barrel Old Country Store, Inc., which operates a nationwide chain of restaurants and retail gift shops across the United States" and that "Complainant has more than 660 locations in 45 states, and is one of the largest restaurant chains in the United States, with more the US$3.4 billion in annual revenue".

The Complainant further states, and provides documentation in support thereof, that it is the owner of more than 50 federal trademark registrations in the United States for trademarks that consist of or contain "Cracker Barrel", including the following:

- U.S. Reg. No. 3,886,461 for CRACKER BARREL (registered December 7, 2010) for use in connection with "restaurant services"

- U.S. Reg. No. 3,900,702 for CRACKER BARREL (registered January 4, 2011) for use in connection with "retail gift shops"

These registrations are referred to herein as the "CRACKER BARREL Trademark."

The Disputed Domain Name was registered on March 5, 2026. According to the Complaint, and as supported by appropriate documentation, "Respondent is using the domain name to host what is essentially a replica of Complainant's official website… to impersonate Complainant". The Complainant states that the website using the Disputed Domain Name "likely… directly copied the content from [Complainant's] site".

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 identical or confusingly similar to the CRACKER BARREL Trademark because, inter alia, "[t]he domain name is identical to the Complainant's CRACKER BARREL mark with the exception of the fact that the letter 'e' in Barrel has been replaced with the letter 'a'"; and "[i]t is well-established that a domain name which is plainly a misspelling of an existing trademark is confusingly similar to that mark".

- Respondent has no rights or legitimate interests in the Disputed Domain Name because, inter alia, "Respondent is not commonly known by the domain name or any portion thereof, nor is there any indication that Respondent registered the domain name as a trademark"; "Complainant has never assigned, sold or transferred any rights in its any of its Cracker Barrel Marks to Respondent"; "Complainant has not granted Respondent permission to use or register its mark as a domain name"; "Respondent is not making a legitimate noncommercial or fair use of the domain name, nor is Respondent using the domain name in connection with a bona fide offering of goods or services" because "Respondent is using the domain name to host what is essentially a replica of Complainant's official website"; and "panelists have found that use of the disputed domain name, which is a misspelling of the Complainant's trademark (i.e. a case of so-called typosquatting), for a website without any meaningful content cannot be considered as use in connection with

a bona fide offering of goods or services, nor as a legitimate noncommercial or fair use" (internal punctuation and citations omitted).

- The Disputed Domain Name was registered and is being used in bad faith because, inter alia, Respondent was aware of the CRACKER BARREL Trademark because it "has been used by Complainant for over 50 years, well prior to the registration of the disputed domain name" and "the content of the [Respondent's] associated web site… essentially replicates the content of Complainant's official website"; "the Disputed Domain Name is reflective of typosquatting"; "Respondent's use of the domain name has the ability to frustrate consumers who believe they are dealing with Complainant" because it "is plainly an attempt to impersonate Complainant, presumably with the intent to deceive or defraud consumers"; and the Respondent used a privacy service, and even the underlying contact information may be false given numerous inconsistencies.

B. Respondent

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

6. Discussion and Findings

Pursuant to the Policy, the Complainant is required to prove the presence of each of the following three elements to obtain the relief it has requested: (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark 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. Policy, paragraph 4(a).

A. Identical or Confusingly Similar

Based upon the trademark registrations cited by the Complainant, it is apparent that the Complainant has rights in and to the CRACKER BARREL Trademark.

As to whether the Disputed Domain Name is identical or confusingly similar to the CRACKER BARREL Trademark, the relevant comparison to be made is with the second-level portion of the Disputed Domain Name only (i.e., "crackerbarral") because "[t]he applicable Top-Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test". WIPO Overview of WIPO Panel Views on Select UDRP Questions ("WIPO Overview 3.1"), section 1.11.1.

As set forth in section 1.9 of WIPO Overview 3.1: "A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element." Obviously, the Disputed Domain Name's use of a letter "a" in lieu of a letter "e" is an intentional misspelling of the CRACKER BARREL Trademark.

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

B. Rights or Legitimate Interests

The Complainant has argued that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, inter alia, "Respondent is not commonly known by the domain name or any portion thereof, nor is there any indication that Respondent registered the domain name as a trademark"; "Complainant has never assigned, sold or transferred any rights in its any of its Cracker Barrel Marks to Respondent"; "Complainant has not granted Respondent permission to use or register its mark as a domain name"; "Respondent is not making a legitimate noncommercial or fair use of the domain name, nor is Respondent using the domain name in connection with a bona fide offering of goods or services" because "Respondent is using the domain name to host what is essentially a replica of Complainant's official website";

and "panelists have found that use of the disputed domain name, which is a misspelling of the Complainant's trademark (i.e. a case of so-called typosquatting), for a website without any meaningful content cannot be considered as use in connection with a bona fide offering of goods or services, nor as a legitimate noncommercial or fair use" (internal punctuation and citations omitted).

WIPO Overview 3.1, section 2.1, states: "Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving that a respondent lacks rights or legitimate interests in a domain name may result in the often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

The Panel finds that Complainant has established its prima facie case and without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has satisfied the second element of the Policy.

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

C. Registered and Used in Bad Faith

Whether a domain name is registered and used in bad faith for purposes of the Policy may be determined by evaluating four (non-exhaustive) factors set forth in the Policy: (i) circumstances indicating that the registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the registrant's documented out-of-pocket costs directly related to the domain name; or (ii) the registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the registrant's website or location or of a product or service on the registrant's website or location. Policy, paragraph 4(b).

In the present case, Complainant states and provides documentation in support thereof (which Respondent has not denied) that the Disputed Domain Name is used in connection with a website that "essentially replicates the content of Complainant's official website". Clearly, using a disputed domain name that contains a complainant's trademark to imitate a complainant's commercial website creates a likelihood of confusion under paragraph 4(b)(iv) of the Policy, as panels have frequently found. See, e.g., *The Dow Chemical Company v. dowaychemical eva_hwang@21cn.com +86.7508126859*, WIPO Case No. D2008-1078 (finding bad faith where complainant alleged that respondent's website "fraudulently impersonat[ed] the Complainant" because "[t]he Respondent was clearly specifically targeting the Complainant's trademark and attempting to divert Internet users searching for the Complainant's product to the Respondent's website"); *Emu (Aus) Pty Ltd. and Emu Ridge Holdings Pty Ltd. v. Antonia Deinert*, WIPO Case No. D2010-1390 ("a reasonable person who visited the Respondent's website was likely to be misled in relation to the source, sponsorship, affiliation, or endorsement of the website and the products purportedly made available for online sale on the website"); *Cantor Fitzgerald Securities, Cantor Index Limited v. Cantor Index*, WIPO Case No. D2010-0807 (finding bad faith where "Respondent copied text, logos and other elements from Complainant's website"); and *Puerto 80 Projects SLU v. Domains By Proxy, LLC, DomainsByProxy.com and Jupiter Miguel Tarrero Gallo*, WIPO Case No. D2012-1563 (finding bad faith where complainant alleged that "Respondent just imitates the look and feel of the website of the Complainant").

Further, as set forth in section 3.1.4 of WIPO Overview 3.1: "Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith." And as set forth in section 3.2.1 of WIPO Overview 3.1, particular circumstances panels may take into account in assessing whether a respondent's registration of a domain name is in bad faith include "the nature of the domain name (e.g., a typo of a widely-known mark […])".

Finally, Complainant has provided multiple references to what appear to false contact details in the WhoIs record for the underlying registrant information for the Disputed Domain Name. This, too, is an indication of bad faith. See, e.g, section 3.6. of WIPO Overview 3.1: "Panels additionally view the provision of false contact information (or an additional privacy or proxy service) underlying a privacy or proxy service as an indication of bad faith."

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 <crackerbarral.com> be transferred to the Complainant.

/Douglas M. Isenberg/
Douglas M. Isenberg
Sole Panelist
Date: May 27, 2026