



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2501961
Complainant:	Erik Livingston
Respondent:	Rico Barrios
Disputed Domain Name(s):	<eriklivingston.net>

1. The Parties and Contested Domain Name

The Complainant is Erik Livingston, of 16E, Weave, 61 Winslow Street, Hung Hom, Kowloon, Hong Kong SAR China (the “**Complainant**”).

The Respondent is Rico Barrios, of 10630 Beechnut St, Houston TX, 77072, United States (the “**Respondent**”).

The domain name at issue is <eriklivingston.net>, registered by Respondent with Squarespace Domains LLC, of 225 Varick Street, 12th Floor New York, NY 10014, United States (the “**Disputed Domain Name**” and “**Disputed Domain**”, as applicable).

2. Procedural History

The present complaint (the “**Complaint**”) was received by the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (“**ADNDRC**”) via email on January 26, 2025.

On January 27, 2025, the ADNDRC transmitted via email to Squarespace Domains LLC a request for registrar verification in connection with the Disputed Domain Name. Squarespace Domains LLC then responded by way of email on January 27, 2025, confirming that the Disputed Domain Name is registered with them, that the registrant is Rico Barrios of 10630 Beechnut St, Houston TX, 77072, United States. In a follow-up email on the same day, Squarespace Domains LLC also informed the ADNDRC that the email correspondence address of the registrant pursuant to their records is ricobarriosvene88@gmail.com.

The ADNDRC had then, on February 4, 2025 and by way of email, confirmed that the Complaint is in administrative compliance with the Uniform Domain Name Dispute Resolution Policy (“**UDRP**”) and the Rules for Uniform Domain Name Dispute Resolution Policy (the “**Rules**”).

Two emails were then transmitted by the ADNDRC to ricobarriosvene88@gmail.com, one bearing the subject “HK-2501961 <eriklivingston.net> Domain Name Case – WRITTEN NOTICE OF COMPLAINT” and the other bearing the subject “HK-2501961 <eriklivingston.net> Domain Name Case – Complaint and Annexes”. Both emails were dated February 5, 2025. The first email contains, among others, the Written Notice of Complaint, while the second email contains, among others, a link to receive the Complaint and its annexes.

No response was received from the Respondent as at February 26, 2025 at 3.16 p.m.. This was recorded in an email from the ADNDRC to the Respondent.

3. Factual background

The Disputed Domain Name, <eriklivingston.net>, is identical to the Complainant’s personal name, “Erik Livingston.”

The Complainant has operated as a self-employed tutor since at least 2020, offering educational services in Hong Kong under his name. The Complainant has also engaged in research assistant roles and advocacy work, for example with the Hong Kong Baptist University. Additionally, the Complainant also has a registered business under the name “Erik Livingston” in Hong Kong.

The website at the Disputed Domain references an individual named “Rico Barrios”. According to the Complainant, the Disputed Domain Name was registered following the exclusion of an individual with the name “Rico Barrios” from a WhatsApp group managed by the Complainant. In this regard, the website at the Disputed Domain contains, among others, an article titled “Removal of Rico and others from WhatsApp Group PFS Funding” dated May 6, 2024, where the author referred to themselves in the first person and providing their email address ricobarriosvene88@gmail.com.

The Respondent has been identified based on information provided by the ADNDRC which received registrant details from the registrar, Squarespace Domains LLC, in response to the Complaint. The registrar also provided an email address for the registrant, i.e. ricobarriosvene88@gmail.com, the same contact detail found in the article on the website at the Disputed Domain Name.

4. Parties’ Contentions

A. Complainant

The Complainant’s contentions may be summarized as follows:

- i. “Erik Livingston” is the Complainant’s personal name. In this regard, although the Complainant has not formally registered “Erik Livingston” as a trademark, the Complainant nevertheless contends that it qualifies for protection as a common law trademark due to its extensive use in commerce and the association of the name with the Complainant’s professional and advocacy activities.

In support of the contention that the name “Erik Livingston” has been used extensively in commerce and in association with the Complainant’s professional and advocacy activities, the Complainant puts forward the following points:

- The Complainant has operated as a self-employed tutor since at least 2020, offering educational services in Hong Kong under his name. Evidence includes professional listings on platforms such as Desk One and 4Tutor, contracts with the British Elite Education Group, and tax filings demonstrating the financial significance of his services.
- The Complainant has formalized his professional presence by registering a business under his name in Hong Kong. This business registration is tied to the Complainant’s broader activities, including his professional reputation, advocacy work, and plans for future expansion, all of which predate the registration of the Disputed Domain Name.

The Complainant therefore contends that he has legitimate rights and interests in the name “Erik Livingston”. Common law trademark rights can be established for an unregistered personal name if the name has been used in trade or commerce and has acquired secondary meaning. The Disputed Domain Name is identical to the Complainant’s personal name, which functions as a common law trademark.

- ii. The Disputed Domain Name is identical to the name “Erik Livingston”, an unregistered mark to which the Complainant has legitimate rights and interests in. Minor variations such as the addition of a domain suffix (e.g., “.net”) do not negate confusing similarity.
- iii. The Respondent has not used the Disputed Domain Name for *bona fide* goods or services. The website at the Disputed Domain instead features content targeting the Complainant, which does not constitute legitimate use. The content includes allegations of misconduct and hostility, which caused harm to the Complainant’s professional reputation and personal well-being. The Complainant further contends that the timing and nature of the registration indicate that the Respondent acted with the intent to damage the Complainant’s reputation. The use of a privacy service to obscure the Respondent’s identity further supports this conclusion. It is the Complainants’ contention that this concealment, when paired with the timing of the domain’s registration (shortly after a personal dispute involving the Complainant) provides compelling evidence of retaliatory intent.

The Respondent’s bad faith control of the domain name has not only caused historical harm to the Complainant’s reputation and business but also threatens to undermine his ability to leverage his name for professional growth and development. This impediment is particularly damaging given the centrality of the Complainant’s name to his professional identity and branding.

- iv. The website hosted at the Disputed Domain references an individual named “Rico Barrios”. Although it remains unclear whether the Respondent is in fact

“Rico Barrios” or is attempting to defame or implicate that individual, the Respondent has no connection to the name “Erik Livingston” and no legitimate reason to register or use a domain incorporating that name.

The Respondent is also not making legitimate noncommercial or fair use of the Disputed Domain Name. Instead, it appears that the domain was registered and used to cause harm or confusion related to the Complainant’s identity. These facts conclusively demonstrate that the Respondent lacks legitimate interests in the Disputed Domain Name.

The Respondent’s use of a privacy service to obscure their identity supports the conclusion that they lack legitimate interests.

- v. The Complainant therefore requests that the Disputed Domain Name be transferred to the Complainant.

B. Respondent

The Respondent failed to respond to the Complaint and has not otherwise actively participated in these proceedings.

5. Findings

A. Preliminary

This Panel notes that the Respondent has not actively participated in the present proceedings.

In this regard, this Panel also notes that two emails have been sent by the ADNDRC to the Respondent on February 5, 2025 – one containing the Written Notice of Complaint, the other containing a link to the Complaint and its annexes. Both emails were sent to ricobarriosvene88@gmail.com, the email address listed with the registrant Squarespace Domains LLC. Pertinently, that same email address was also mentioned, on an article on the website at the Disputed Domain *Removal of Rico and others from WhatsApp Group PFS Funding*, as a means of reaching the writer of the article.

The ADNDRC had also sent an email to the Respondent to put on record the Respondent’s non-response, as well as to notify the Respondent of the appointment of this Panel. This latter email was dated February 26, 2025, twenty-one (21) days after the email containing the Written Notice of Complaint and the email containing the link to the Complaint and its annexes.

This Panel therefore finds that the ADNDRC has employed reasonably available means to achieve actual notice to the Respondent when it sent the emails to the Respondent on February 5, 2025, and that the present proceedings have therefore been commenced on that date pursuant to Paragraph 4(f) of the Rules.

As the Respondent had failed to submit a response to the present proceedings within twenty (20) days of the date of commencement of the same, i.e. by February 25,

2025, this Panel shall proceed under Paragraphs 5(f) and 14 of the Rules to decide the dispute based on the Complaint.

B. Substantive

The UDRP provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- (1) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (2) Respondent has no rights or legitimate interests in respect of the Disputed Domain name; and
- (3) the Disputed Domain Name has been registered and is being used in bad faith.

This Panel will now address each element in turn.

i. Whether the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights

Whether “Erik Livingston” is a trademark or service mark in which the Complainant has rights

The Panel first considers whether “Erik Livingston” is a trademark or service mark in which the Complainant has rights.

To establish common law rights in a personal name, it is necessary to show use of that name as an indication of goods or services supplied in trade or commerce and that, as a result of such use, the name has become distinctive of that source. *WIPO Case No. D2002-0616 <alberteinstein.com>*. For a claim to be brought under the UDRP based on a personal name therefore, the Complainant must establish the distinctive character of the name. The Complainant has established that they are sufficiently famous in connection with the services that they are offering. *WIPO Case No. D2000-0402 <stevenrattner.com>*.

Guided by the principles above, this Panel takes note that:

- (1) the Complainant has put before this Panel, among others, a receipt for LinkedIn Premium Business Subscription for September 17, 2020 to October 17, 2020 billed to “Erik Livingston”, invoices and reimbursement forms to be paid to “Erik Livingston” for services in relation to research projects, as well as the Complainant’s business card bearing the name “Erik Livingston”;
- (2) the Complainant has also put before this Panel a Registration Certificate where the registered name of the business or corporation is “Erik Livingston”, which was to commence on February 27, 2024; and

- (3) the Complainant has further contended that he has been named on professional listings on platforms such as Desk One and 4Tutor, that he also has contracts with the British Elite Education Group.

This Panel concludes from the matters and documents set out above, in particular the registration of a business bearing the name “Erik Livingston” (*See WIPO D2003-0248 <aboutsrichinmoy.com> and <gurusrichinmoy.com>*), that the Complainant has used his personal name, Erik Livingston, as a marketable commodity for the direct commercial purposes in marketing his services.

This Panel therefore finds on balance that the Complainant has rights to the mark “Erik Livingston”.

For completeness, this Panel notes from past decisions that there is no requirement under the UDRP for the trademark or service mark in question to be registered with a government authority or agency for rights to the marks to exist. *WIPO Case No. D2000-0235 <jeanettewinterson.com>, <jeanettewinterson.net> and <jeanettewinterson.org>; WIPO Case No. D2000-0210 <juliaroberts.com>*.

Whether the Disputed Domain Name is identical or confusingly similar to the subject-matter trademark or service mark

Having found that the Complainant has rights to the trademark or service mark “Erik Livingston”, this Panel now considers whether the Disputed Domain Name is identical or confusingly similar to that trademark or service mark.

The answer to this is an undoubted “yes”. The only difference between the Disputed Domain Name, **<eriklivingston.net>**, and mark in question, “Erik Livingston”, is the lack of a space and the addition of the suffix “.net”. This is an insignificant difference. *See WIPO Case No. D2005-0823 <priceclubbd.com>; ADNDRC HK-0400035 <astonchase.com>*.

Conclusion

For the reasons above, this Panel finds that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

ii. Whether Respondent has rights or legitimate interests in respect of the Disputed Domain Name

The registrant of the Disputed Domain Name is “Rico Barrios”. However, there is no evidence before this Panel that Rico Barrios has any rights or legitimate interests in the mark “Erik Livingston”.

This Panel also notes that the website at the Disputed Domain Name claims to “inform the people of what Erik Livingston of the Leg Up International, the CurePFS, and the Moral Medicine is to be capable of”. Notwithstanding and without prejudice to the Complainant’s contention that the contents of the website are defamatory, this Panel does not dispute the Respondent’s rights to

establish and maintain a website critical of Complainant. However, this Panel agrees with the view of the Panel in *WIPO Case No. D2000-0299 <montyroberts.net>*, that

[T]he right to express one's views is not the same as the right to use another's name to identify one's self as the source of those views. One may be perfectly free to express his or her views about the quality or characteristics of the reporting of the New York Times or Time Magazine. That does not, however, translate into a right to identify one's self as the New York Times or Time Magazine.

This Panel notes that the putative Respondent, Rico Barrios, appears to be an individual that the Complainant is acquainted with. It is therefore incumbent upon this Panel to record that the Complainant has acknowledged that it is unclear whether the Respondent is in fact "Rico Barrios" or is attempting to defame or implicate that individual. Nevertheless, if the Respondent is in fact someone other than Rico Barrios, this will further fortify the conclusion that the Respondent has no connection to the name "Erik Livingston", or any rights or interests over that name. There is no need for this Panel to make a finding on whether the Respondent is, in fact, Rico Barrios.

This Panel therefore finds that there is no evidence of the Respondent having rights or legitimate interests in respect of the mark "Erik Livingston".

iii. Whether the Disputed Domain Name registered and is being used in bad faith

Guidance on the issue of bad faith have been provided for in Paragraph 4(b) of the UDRP, in the following words:

For the purposes of Paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that you have registered or you have 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 your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have 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 you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.

However, as may be seen from the opening words of Paragraph 4(b) itself, the circumstances evidencing bad faith are not limited to those in Paragraph 4(b).

In determining whether the Disputed Domain Name was registered and is being used in bad faith, this Panel notes that the contents of the website at the Disputed Domain are critical of the Complainant. This Panel further notes that the website itself purports to “inform the people of what Erik Livingston ... is to be capable of”.

This Panel therefore concludes that the Disputed Domain Name was registered and is being used in bad faith. In coming to this conclusion, this Panel is guided by *WIPO Case No. D2007-0769 <chubbsux.com>*, where the Panel there reasoned as follows:

In the present case, in choosing the Complainant’s name and the CHUBB trademark as the dominant feature of the domain name, the Respondent has created a situation where at least some users will be attracted to the site because of its name and will then be subjected to a strong attack on the Complainant, including allegations that it is corrupt and in breach of the law and other allegations clearly designed to damage the Complainant in the eyes of its customers and potential buyers as well as in the eyes of the public.

In the opinion of the Panel, that conduct amounts to bad faith both with respect to registering the domain name and using it in the website.

The reasoning of the panel in *WIPO Case No. D2007-0769 <chubbsux.com>* have been adopted by the three-member panel in *WIPO Case No. D2012-0692 <daralarkan-crisis.com>*.

It is this Panel’s view that the reasoning of the panel in *WIPO Case No. D2007-0769 <chubbsux.com>* are equally applicable here. In choosing the Complainant’s name (and the mark) as the dominant feature of the Disputed Domain Name, the Respondent has created a situation where at least some users will be attracted to the site because of its name and will then be subjected to a strong attack on the Complainant. As noted above, the website at the Disputed Domain Name itself purports to “inform the people of what Erik Livingston ... is to be capable of”. There is therefore also an admission on the website at the Disputed Domain Name itself that the allegations there are designed to damage the Complainant in the eyes of his clients and potential clients as well as in the eyes of the public.

As noted in *WIPO Case No. D2007-0769 <chubbsux.com>*, “the Respondent has every right to promote his lawful views about the Complainant, but not via

a website that carries the name of the Complainant and does so against its will.”. It follows that whether the contents of the website at the Disputed Domain Name amounts to defamation will not change the findings of this Panel as set out above. There is therefore no necessity for this Panel to make a determination at this juncture as to whether the contents of the website are indeed defamatory.

6. Decision

For the foregoing reasons, in accordance with Paragraph 4(i) of the Uniform Domain Name Dispute Resolution Policy and Paragraph 15 of the Rules for Uniform Domain Name Dispute Resolution Policy, this Panel orders that the Disputed Domain Name, <**eriklivingston.net**>, be transferred to the Complainant.



Chew Kherk Ying
Sole Panelist

Dated: 12 March 2025