

ADMINISTRATIVE PANEL DECISION

Carvana, LLC v. Host Master, Transure Enterprise Ltd
Case No. D2022-0586

1. The Parties

The Complainant is Carvana, LLC, United States of America (“United States”), represented by Bryan Cave Leighton Paisner LLP, United States.

The Respondent is Host Master, Transure Enterprise Ltd, United States.

2. The Domain Name and Registrar

The disputed domain name <carvanacar.com> is registered with Above.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 18, 2022. On February 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 25, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on February 25, 2022 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 March 1, 2022.

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 March 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 23, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 28, 2022.

The Center appointed Kathryn Lee as the sole panelist in this matter on April 7, 2022. 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.

Due to unforeseen circumstances, the Panel found it necessary to extend the due date for the decision to at least April 28, 2022, and the Parties were so notified.

4. Factual Background

The Complainant is an e-commerce platform and Fortune 500 company that provides used vehicle dealership services and vehicle financing services online through its website at the domain name <carvana.com> since October 18, 2003. The Complainant was launched in January 2013 and currently operates in more than 265 markets covering more than 73.7 per cent of the United States population. In 2020, the Complainant sold more than 240,000 vehicles to retail customers with used vehicle sales revenues exceeding USD 5.5 billion. The Complainant's website averages more than 8.5 million unique visitors each month.

The Complainant owns several CARVANA and CARVANA-based marks in the United States including the following:

- CARVANA text mark registered on April 30, 2013 in classes 35 and 36 (Registration Number 4,328,785);
- CARVANA text mark registered on August 16, 2016 in class 39 (Registration Number 5,022,315);
- CARVANA stylized mark registered on April 21, 2020 in classes 35, 36, and 39 (Registration Number 6,037,292); and
- CARVANACARE text mark registered on June 7, 2015 in class 36 (Registration Number 4,971,997).

The Respondent appears to be an entity with an address in the United States.

The disputed domain name was registered on August 8, 2017. At the time of filing the Complaint and the amended Complaint, the disputed domain name did not resolve to any active website, and the disputed domain name resolves to a domain parking site with pay-per-click ("PPC") links at the time of the decision.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the CARVANA trademark in which the Complainant has rights. The disputed domain name incorporates the CARVANA trademark in its entirety, and the other term "car" does nothing to obviate confusion. Rather, it likely exacerbates confusion because the Complainant is in the business of selling vehicles.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. Further, the Complainant asserts that the Complainant and its CARVANA mark are well-known, and it is unlikely for the Respondent to have chosen this term unless it was specifically seeking to create an impression of an association with the Complainant.

Finally, the Complainant contends that the disputed domain name was registered and is used in bad faith. The Complainant asserts that the Respondent is using the disputed domain name to divert potential visitors away from the Complainant's legitimate website and towards the Respondent's own website in order to generate traffic and sales commissions for the Respondent's commercial benefit. The Complainant also asserts that the Respondent's use of the disputed domain name for a passive or parking page constitutes bad faith, especially given the fame of the CARVANA mark and the Respondent's lack of any rights in the term.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated with supporting evidence that it has rights to the trademark CARVANA. As for the disputed domain name, it incorporates the CARVANA mark in its entirety along with the term "car". According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.7, a domain name is considered confusingly similar to a trademark if it "incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the disputed domain name." In this regard, "carvana" is readily recognizable within the disputed domain name. The additional term "car" does not prevent a finding of confusing similarity.

For the reasons mentioned above, the Panel finds that the first element has been established.

B. Rights or Legitimate Interests

On the basis of the present record, the Panel finds that the Complainant has made the required allegations to support a *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain name. Once such a *prima facie* case has been established, the burden of production shifts to the Respondent to demonstrate its rights or legitimate interests in the disputed domain name, with the burden of proof always remaining with the Complainant. However, the Respondent in this case has chosen to file no Response to these assertions by the Complainant, and there is no evidence or allegation in the record that would warrant a finding in favor of the Respondent on this point.

Besides, a respondent's use of a domain name is not considered "fair" if it falsely suggests affiliation with the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1. Here, the dominant element of the disputed domain name corresponds exactly to the Complainant's mark, supported by the additional term "car" which correlates to the Complainant's business, which carries a risk of implied affiliation with the Complainant. Further, the Respondent's use of the disputed domain name for a domain parking page with PPC links related to the Complainant's business fields does not represent a *bona fide* offering of goods or services given that the disputed domain name is confusingly similar to the Complainant's trademark and such use trades on the reputation and goodwill associated with the mark. See [WIPO Overview 3.0](#), section 2.9.

For the reasons provided above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element has been established.

C. Registered and Used in Bad Faith

The Panel finds that there is strong and clear evidence to find bad faith in this case.

Given the fame of the Complainant and the fact that "carvana" is a coined term, it is highly unlikely for the Respondent to have registered the disputed domain name by pure coincidence. Rather, especially with no Response to claim otherwise, it is more probable that the Respondent registered the disputed domain name with the intention of benefiting from the fame of the Complainant's mark. At the time of filing the Complaint and the amended Complaint, the disputed domain name resolved to an inactive page. Having considered the above factors, the Panel believes that the non-use of the dispute domain name would not prevent a finding of bad faith under the doctrine of passive holding (see [WIPO Overview 3.0](#), section 3.3).

Indeed, at the time of the decision, by linking the disputed domain name with a domain parking page with PPC links, the Respondent created a likelihood of confusion with the Complainant's mark and benefited

commercially from the confusion of Internet users that visited the site by mistake as per paragraph 4(b)(iv) of the Policy.

For the reasons given above, the Panel finds that the disputed domain name was registered and is being used in bad faith and that the third element has been established.

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, <carvanacar.com>, be transferred to the Complainant.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: April 29, 2022