

ADMINISTRATIVE PANEL DECISION

Carvana, LLC v. Privacy Administrator, Anonymize, Inc.
Case No. D2022-3657

1. The Parties

Complainant is Carvana, LLC, United States of America, represented internally.

Respondent is Privacy Administrator, Anonymize, Inc., United States of America.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 30, 2022. On October 3, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 3, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center sent an email communication to Complainant on October 5, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on the same date.

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 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 8, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on November 16, 2022.

The Center appointed Georges Nahitchevansky as the sole panelist in this matter on December 5, 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.

4. Factual Background

Complainant, Carvana, LLC, operates an e-commerce platform at <carvana.com> for the buying and selling of used cars. Complainant has used the CARVANA mark since 2013 to promote and provide its online vehicle dealership services and for financing services in connection with the purchase of used cars through Complainant's platform. Complainant owns trademark registrations in the United States for its CARVANA mark, the earliest of which was filed on April 11, 2011 and issued to registration on April 30, 2013 (Registration No. 4,328,785).

The identity of the actual registrant of the disputed domain name is unknown as that information has been masked through a privacy service offered by Respondent Anonymize, Inc. According to the available Whois records before the Panel, the disputed domain name was registered on March 27, 2000. In September 2022, Respondent appears to have used the disputed domain name as a redirect to a page within Complainant's website at <carvana.com> after filtering through a series of URLs. Currently, the disputed domain name resolves to a web page that offers the disputed domain name for sale.

5. Parties' Contentions

A. Complainant

Complainant asserts that it has strong rights in its CARVANA mark on the basis of the rapid growth of Complainant's CARVANA platform since 2013, the several trademark registrations owned by Complainant for the CARVANA mark and prior UDRP decisions where panelists noted that the CARVANA mark has achieved much notoriety in the United States.

Complainant contends that the disputed domain name is nearly identical to the CARVANA mark as it fully incorporates the CARVANA mark in its entirety with the addition of the "letter 'a' to the Mark that is barely noticeable."

Complainant argues that Respondent has no rights or legitimate interests in the disputed domain name as Respondent (i) is not associated with Complainant and has received no authorization from Complainant to use the disputed domain name, (ii) was likely aware of Complainant's CARVANA mark given the notoriety of the CARVANA mark, (iii) is not commonly known by the disputed domain name and owns no trademark registration for the CARVANA mark, and (iv) has used the disputed domain name illicitly to redirect to a page within Complainant's website after filtering through various URLs.

Lastly, Complainant maintains that Respondent has registered and used the disputed domain name in bad faith as Respondent has done so "to trade upon the reputation and goodwill of Complainant and its CARVANA Marks for financial gain." In that regard, Complainant notes that Respondent has used the disputed domain name to attract and redirect web traffic through a series of URLs that ultimately lead to a web page within Complainant's website at <carvana.com> for Respondent's own commercial benefit. Complainant also maintains that Respondent's bad faith is established given the fame of the CARVANA mark and Respondent's awareness of such fame by using the disputed domain name as a redirect to a page within Complainant's website,

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

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

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See section 1.2.1. of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). Complainant has provided evidence that it owns a trademark registration for the CARVANA mark and that it has used the CARVANA mark for its services for many years.

With Complainant’s rights in the CARVANA mark established, the remaining question under the first element of the Policy is whether the disputed domain name (typically disregarding the generic Top Level Domain such as “.com”) is identical or confusingly similar with Complainant’s mark. See *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#). Here, the Panel finds that for purposes of the first element the disputed domain name can be considered confusingly similar to Complainant’s CARVANA mark as the CARVANA mark is recognizable in the disputed domain name and merely differs with the addition of the letter “a” in between “car” and “vana.” The Panel therefore finds that Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Given that Complainant has not established the third element of bad faith registration, as discussed below, the Panel does not need to address the issue of whether Respondent has rights or a legitimate interest in the disputed domain name.

C. Registered and Used in Bad Faith

Under Paragraph 4(a)(iii) of the Policy, a complainant must establish the conjunctive requirement that the respondent registered and used the disputed domain name in bad faith. The assessment of whether a disputed domain name was registered in bad faith is typically done at the time of the registration or acquisition of the disputed domain name.

Here, Complainant asserts in its Complaint that “[t]he Domain Name was registered by Respondent on March 27, 2000 and is used to divert Internet traffic from Complainant’s official website located at <Carvana.com>.” The only documentary evidence in the record concerning the registration of the disputed domain name is in the Whois record provided by Complainant which shows the registration of the disputed domain name as having occurred on March 27, 2000. There is no evidence showing whether the disputed domain name has ever changed ownership, was dropped, or was acquired by a new party at any time since March 27, 2000. As Complainant’s trademark rights in CARVANA only arose in 2013, it appears that Respondent registered the disputed domain name before Complainant developed any trademark rights in CARVANA and thus could not have been acting in bad faith.¹

¹ The Panel in its discretion under its general powers pursuant to paragraphs 10 and 12 of the UDRP Rules has for the benefit of the Parties reviewed archival website pages for the <caravana.com> domain name which are publicly available through the Internet Archive at <archive.org>. [WIPO Overview 3.0](#) at section 4.8. From what the Panel can see, the use of the disputed domain name has changed over its lifespan since 2000. However, the Panel cannot from these pages conclusively determine whether the owner of the disputed

But beyond the registration date of the disputed domain name, the issue Complainant also faces is that the disputed domain name fully and solely consists of a common Spanish word, namely “caravana,” which is the Spanish word for “caravan” or “trailer.” Thus, beyond showing that the disputed domain name was in fact registered after Complainant’s trademark rights in CARVANA arose in 2013, Complainant would still need to show that the registration of the disputed domain name was done to take advantage of Complainant’s rights in CARVANA as a “typo” domain and not on account of its value as the common Spanish word for “caravan” or “trailer.”

The Panel is mindful that Respondent has failed to appear in this matter and that the use of the disputed domain name in September 2022 was as a redirect to a page within Complainant’s website at <carvana.com> after filtering through several URLs (although the disputed domain name no longer redirects to Complainant’s website and is now being offered for sale). Such use of the disputed domain name in September 2022 appears to be in bad faith and to take advantage of Complainant’s rights in CARVANA. Whether that same use occurred prior to September 2022, or after Respondent may have acquired the disputed domain, is not clear as Complainant has provided no evidence in that regard. However, such a redirect in 2022 in isolation does not in and of itself show evidence of the original registration of a domain name as having been done in bad faith. Complainant would still need to establish circumstances with evidence and not unsubstantiated statements that would make it more likely than not that the (subsequent) registration was done in bad faith and to take advantage of Complainant’s trademark rights in CARVANA. Certainly, the timing of an acquisition or registration of the disputed domain name in connection with its use could establish that the registration of the disputed domain name was as a typo version of the CARVANA mark and not based on its possible value as a common Spanish word. Here, however, that evidence is lacking and on the limited evidence submitted the Panel is constrained to conclude that the disputed domain name appears to have been registered before Complainant developed any trademark rights in CARVANA.

In sum, while Complainant’s complaint fails on the third element, the Panel notes that in making this decision it has serious reservations on whether the disputed domain name has remained with the same owner since 2000, particularly in light of Respondent’s complete silence in this matter and the redirection to Complainant’s own site. As such, it may be possible that evidence establishing a change of ownership of the disputed domain name (such as through archival Whois records) after Complainant developed trademark rights in the CARVANA mark could cast a different light on the Panel’s assessment of Respondent’s registration and use of the disputed domain name (certainly if the timing of the acquisition or registration of the disputed domain name occurred just before Respondent’s bad faith use in September 2022, as noted above). Consequently, the Panel concludes that its ruling is without prejudice to Complainant potentially refiling a Complaint in the event Complainant is able to establish with credible evidence that the ownership of the disputed domain name changed after Complainant developed rights in the CARVANA mark. [WIPO Overview 3.0](#) at section 4.18.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Georges Nahitchevansky/

Georges Nahitchevansky

Sole Panelist

Date: December 19, 2022

domain name changed as Complainant has provided no arguments or evidence in that regard. Nevertheless, the Panel has serious reservations about the disputed domain name and whether it has remained under the same ownership since 2000, particularly in light of the redirection to Complainant’s site and Respondent’s failure to appear in the matter despite being put on notice of this proceeding.