

## **ADMINISTRATIVE PANEL DECISION**

### **Carvana, LLC v. Carolina Rodrigues, Fundacion Comercio Electronico Case No. D2023-1273**

#### **1. The Parties**

The Complainant is Carvana, LLC, United States of America (“United States”), internally represented.

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

#### **2. The Domain Name and Registrar**

The disputed domain name <acarvana.com> is registered with GoDaddy.com, LLC (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 23, 2023. On March 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 24, 2023, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 27, 2023, 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 amendment to the Complaint on March 28, 2023.

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 the Respondent of the Complaint, and the proceedings commenced on March 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 18, 2023.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on April 20, 2023. 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 in this proceeding is Carvana, LLC, an Arizona limited liability company. Carvana, LLC and its licensees and related companies are hereinafter collectively referred to as the “Complainant”.

The Complainant is a leading e-commerce platform for buying and selling used cars. The Complainant is a Fortune 500 company that promotes and provides its online vehicle dealership services and online vehicle financing services throughout the United States under its CARVANA trademark and through its primary website, “www.carvana.com”, which hosts its e-commerce platform.

The Complainant is, *inter alia*, the owner of:

- United States trademark registration number 4328785 for the CARVANA trademark, registered on April 30, 2013.
- United States trademark registration number 4971997 for the CARVANACARE trademark, registered on June 7, 2016.
- United States trademark registration number 6037292 for the CARVANA (device) trademark, registered on April 21, 2020.

The disputed domain name was registered on July 17, 2020.

The disputed domain name resolves to a page where the message “Access denied” is displayed.

From the document provided by the Complainant, it appears that the disputed domain name was previously used to redirect traffic to a variety of landing pages, some of which have warnings of restricted websites, or which claim your computer has been infected with a Trojan Spyware and offers phone numbers or links for the users to click on to correct. At other times, the URL resolves to Carvana’s main website, “www.carvana.com” or to the DuckDuckGo search engine.

The Complainant’s trademark registrations predate the registration of the disputed domain name.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant contends that the disputed domain name is confusingly similar to the CARVANA trademark, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith.

The Complainant *inter alia* specifically claims that the Respondent is using the disputed domain name at issue for phishing scams.

##### **B. Respondent**

The Respondent did not formally reply to the Complainant’s contentions.

#### **6. Discussion and Findings**

In order for the Complainant to obtain the transfer of the disputed domain name, paragraphs 4(a)(i)-(iii) of the Policy require that the Complainant must demonstrate to the Panel that:

- (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.

#### **A. Identical or Confusingly Similar**

The Complainant has established rights in the CARVANA trademark. The only differences between the CARVANA trademark and the disputed domain name is the addition of the letter “a” to the beginning of the CARVANA trademark as well as the generic Top-Level Domain (“gTLD”) “.com”.

The gTLD suffix is generally disregarded under the test for confusing similarity for the purposes of the Policy, and the addition of the letter “a” to the Complainant’s trademark does not prevent a finding of confusing similarity under the first element of the UDRP.

In this sense, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.9: “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.”

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

#### **B. Rights or Legitimate Interests**

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent has no connection or affiliation with the Complainant and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant’s trademark. The Respondent does not appear to engage in any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services. In addition, the Respondent does not appear to be commonly known by the disputed domain name or by a similar name. The Respondent has not formally replied to the Complainant’s contentions, claiming any rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

#### **C. Registered and Used in Bad Faith**

The Panel, on the basis of the evidence presented, finds that the disputed domain name was registered and has been used in bad faith.

The Panel is of the opinion that the Respondent was aware of the Complainant’s trademark registrations and rights to the CARVANA mark when it registered the disputed domain name.

In fact, the Complainant’s CARVANA trademark is a fanciful name with no meaning aside from referring to the Complainant’s goods and services. It has been registered and used for several years prior to the registration of the disputed domain name and is a renowned trademark, especially in the car sector. In addition, it appears from the documents provided by the Complainant, that the disputed domain name was also used to redirect Internet users to the Complainant’s official website. Hence, the registration of the disputed domain name does not seem to be a coincidence, and thus indicates that the Respondent knew of the Complainant’s mark and intentionally intended to create an association with the Complainant and its business at the time of the registration of the disputed domain name. The typosquatting nature of the disputed domain name further supports this inference.

Inference of bad faith can also be found in the failure to respond to the Complainant’s contentions, and the Respondent’s lack of any rights or legitimate interests in the disputed domain name.

Further inference of bad faith can be found in the fact that the disputed domain name is offered for sale for USD 1,299, which is most likely in excess of the out-of-pocket costs related to the disputed domain name. This is further evidence of bad faith in accordance with paragraph 4(b)(i) of the Policy.

Another factor supporting the conclusion of bad faith registration and use of the disputed domain name is the fact that the Respondent deliberately chose to conceal its identity through a privacy service.

Lastly, the Panel has independently established, using public search tools, that the Respondent has been the respondent in numerous UDRP proceedings for having abusively registered domain names corresponding to third parties' trademarks. In particular, the Respondent has in the past been found to have registered and used domain names that are confusingly similar to the Complainant's trademark in bad faith. Tellingly, the Complainant cites the following two decisions where the Respondent targeted the Complainant's trademark: See *Carvana, LLC v. Registration Private of Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-2256](#); and *Carvana, LLC v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-2191](#).

This evidences a clear pattern of targeting trademarks, and in particular the Complainant's trademark.

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain names in bad faith.

Therefore, the Complainant has satisfied paragraph 4(a)(iii) 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, <acarvana.com>, be transferred to the Complainant.

*/Fabrizio Bedarida/*

**Fabrizio Bedarida**

Sole Panelist

Date: April 27, 2023