

ADMINISTRATIVE PANEL DECISION

Carvana, LLC v. Super Privacy Service LTD c/o Dynadot / S Jon Grant
Case No. D2022-1152

1. The Parties

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

The Respondent is Super Privacy Service LTD c/o Dynadot, USA / S Jon Grant, USA.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 1, 2022. On April 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 8, 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 April 8, 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 April 11, 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 April 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 2, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 3, 2022.

The Center appointed Nicolas Ulmer as the sole panelist in this matter on May 9, 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

The Complaint and its Annexes reveal that the Complainant operates a significant e-commerce business that promotes and renders online vehicle dealership services and financing; the Complainant's primary online platform is hosted at its "www.carvana.com" website. The Complainant asserts that it has grown rapidly since its launch in January 2013 and now operates in 311 markets, covering more than 81% of the USA population.

The Complainant owns a number of trademarks registered in the USA including:

- CARVANA, USA Registration No. 4,328,785, registered on April 30, 2013, in International classes 35 and 36;
- CARVANACARE, USA Registration No. 4,971,997, and registered on June 7, 2016, in International class 36;
- CARVANA, USA Registration No. 5,022,315, registered on August 16, 2016, in International class 39.

The disputed domain name was registered on December 18, 2021. When the Panel sought to access the disputed domain name on May 13, 2022, from Switzerland, it resolved to a Swisscom (Swiss telecoms provider) notice of "Dangerous website blocked", with a warning that the site might try to access and misuse personal data by "phishing" or fraud. The Complainant maintains that the disputed domain name has, at times, been used to divert Internet users to pages featuring pay-per-click links, and at other times been inactive or automatically redirects to third-party sites.

Little is known of the Respondent who appears to be an individual in the USA.

5. Parties' Contentions

A. Complainant

The Complainant asserts that it has devoted large resources in order successfully to develop substantial goodwill and renown in its distinctive CARVANA brand and trademarks, and the purpose of the disputed domain name is wrongfully to divert Internet traffic from the Complainant.

Specifically the Complainant alleges that the Respondent is engaged in an unauthorised use of the Complainant's trademarks as: a) the disputed domain name is confusingly similar to the Complainant's trademarks; b) the Respondent has never been granted and has no legitimate rights or interest in such marks; and c) the Respondent can only have registered, and uses or has used, the disputed domain name in bad faith.

The Complainant cites numerous decisions from prior UDRP panels that ruled in favour of it and have, *inter alia*, found the CARVANA trademark to be distinctive, well known or clothed in goodwill. See, e.g. *Carvana LLC v. Registration Private, Domains By Proxy, LLC /Cline Davis*, WIPO Case No. [D2020-0859](#); *Carvana LLC v. Domain Administrator, Fundacion Privacy Services Ltd*, WIPO Case No. [D2020-2348](#).

The Complainant requests that the disputed domain name be transferred to it.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The disputed domain name begins with and wholly incorporates the entirety of the Complainant's trademark. This is then followed by the word "job" and the letters "tx", which might be a reference to the State of Texas, although this is not clear. What is clear is that the word and letters appended to the Complainant's trademark do not prevent or meaningfully diminish the confusing similarity of the disputed domain name to the Complainant's trademarks; the disputed domain name remains confusingly similar to the Complainant's trademark as the trademark is easily recognisable within the disputed domain name.

The Complainant has, accordingly met its burden under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

In UDRP jurisprudence and case law, the Complainant needs to establish at least a *prima facie* case showing that the Respondent has no rights or legitimate interests in respect of the disputed domain name. See *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#). Once such a *prima facie* case is made, the burden of production shifts to the Respondent to prove that it has rights or legitimate interests in the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 2.1; see also, *Meizu Technology Co., Ltd. v. "osama bin laden"*, WIPO Case No. [DCO2014-0002](#); *H & M Hennes & Mauritz AB v. Simon Maufe, Akinsaya Odunayo Emmanuel and Nelson Rivaldo*, WIPO Case No. [D2014-0225](#).

In the present case the Complainant has confirmed that it is not associated with the Respondent and has not licensed, authorised, or otherwise permitted the Respondent to use its trademark in a domain name or in any other manner.

There is also no evidence before the Panel to suggest that the Respondent is commonly known as "Carvana" or "Carvanajobtx", or any other evidence or *indicia* suggesting that the Respondent has any rights in the disputed domain name.

The Respondent, having failed to answer the Complaint, the Panel finds that the Complainant has accordingly met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant has established that its trademark is distinctive and very well known, particularly on the Internet and in e-commerce; a point confirmed in numerous UDRP decisions. See *e.g. Carvana LLC v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) /Ferdit Jemelk Jemelk*, WIPO Case No. [D2020-2274](#). It is quite implausible that the Respondent chose the disputed domain name by serendipity or for some legitimate purpose; the Complainant's assertion that the disputed domain name could only have been registered with a bad faith motive of trading on the reputation and goodwill of the Complainant is sustained.

It is furthermore difficult, on the facts here, to envision any good faith use the Respondent could have put the disputed domain name to. The Complainant submits screenshots from April 12, 2022, showing the disputed domain name to have been used to direct Internet users to a third-party commercial website offering various products and services, which supports the Complaint's assertions that the Respondent used the disputed domain name and the Complainant's trademarks to attract and divert business for commercial gain. It also

appears from the Complaint that the Respondent has continued to hold the disputed domain name passively, and the Complainant asserts that such passive holding is, on the facts here, sufficient for a finding of bad faith use; the Panel concurs, see section 3.3, [WIPO Overview 3.0](#),

The Complainant cites a prior UDRP case with evidence that the Respondent here “*has engaged in a pattern of of registering domain names that incorporate well-known marks*”. *Riot Games, Inc. v. Super Privacy Service Ltd. c/o Dynadot / S Jon Grant*, WIPO Case No. [D2021-3987](#). The Complainant further submits evidence of a reverse Whois search that indicates that the Respondent is associated with thousands of domain names, including those incorporating versions of many famous trademarks. These submissions are further evidence of bad faith intent and actions by the Respondent here.

The Panel accordingly here finds bad faith registration and use within the meaning of 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 <carvanajobtx.com> be transferred to the Complainant.

/Nicolas Ulmer/

Nicolas Ulmer

Sole Panelist

Date: May 17, 2022