

ADMINISTRATIVE PANEL DECISION

Carvana, LLC v. Domain Administrator
Case No. D2022-3578

1. The Parties

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

The Respondent is Domain Administrator, China.

2. The Domain Name and Registrar

The disputed domain name <carvanna.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 September 27, 2022. On September 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 29, 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 (above privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 29, 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 amendment to the Complaint on September 29, 2022.

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 September 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 21, 2022.

The Center appointed Emre Kerim Yardimci as the sole panelist in this matter on October 25, 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 Complainant is a United States company that operates an e-commerce platform for buying and selling used cars from the website “www.carvana.com” (the “Complainant’s Website”) and under the trademark CARVANA (the “CARVANA Mark”). The Complainant launched its service in January 2013, currently operates in 311 markets and in 2021 sold more than 425,000 vehicles to retail customers (Annex 6). The Complainant’s Website averages more than 17.8 thousand unique visitors per month.

The Complainant is the owner of trademark registrations for the CARVANA Mark in the United States, including registration number 4,328,785, registered on April 30, 2013, for services in classes 35 and 36.

The Respondent registered the disputed domain name on February 24, 2013, using the privacy service Domains by Proxy to shield its identity. At the time of filing the Complaint, the disputed domain name resolved to Complainant’s main website. Currently, the disputed domain name resolves to parking pages featuring apparent pay-per-click (“PPC”) links relating to car financing, car services, car deals as well as the links containing the Complainant’s trademark mark “Carvana used car”, “Carvana certified cars” and “Carvana used Suvs”.

5. Parties’ Contentions

A. Complainant

The disputed domain name is confusingly similar to the Complainant’s CARVANA trademark in which it has rights. The disputed domain name contains the Complainant’s CARVANA trademark with an additional “n” letter. This is a case of typosquatting, as the letter repetition is intentional.

The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has not been authorized or licensed by the Complainant to use the CARVANA trademark in any manner. To the best of the Complainant’s knowledge, the Respondent has never been commonly known by the disputed domain name nor acquired any trademark rights in “carvanna”. There has been no *bona fide* offering of goods or services by the Respondent in its manner of use of the disputed domain name. Although the website under the disputed domain name redirects the Internet user back to the Complainant’s Website, the Respondent is trying to generate traffic and sales commissions for its own commercial benefit which is not a *bona fide* intention to use.

The Respondent would have been well aware of the Complainant’s CARVANA trademark at the time the disputed domain name was registered as the Complainant’s CARVANA trademark is known before the time of the registration of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. As indicated above, the Complainant holds multiple registrations for CARVANA.

The Panel further finds that the disputed domain name is almost identical to CARVANA trademark insofar as only the letter “n” is repeated in the disputed domain name. See sections 1.7 and 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)).

Accordingly, the Panel holds that the disputed domain name is confusingly similar for the purposes of the Policy with a trademark in which the Complainant has rights.

As such the Panel holds that paragraph 4(a)(i) of the Policy has been satisfied.

B. Rights or Legitimate Interests

The Complainant has made a *prima facie* showing of a lack of the Respondent’s rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name, and the use of the disputed domain name to redirect to Complainant’s Website or currently to display PPC links competing with or capitalizing on the Complainant’s trademark constitutes neither a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use in this case.

The Respondent did not file a Response. Therefore, the Respondent made no effort to demonstrate any rights or legitimate interests in the disputed domain name.

Accordingly, the Panel determines the Complainant has demonstrated that the Respondent lacks rights or legitimate interests in disputed domain name.

C. Registered and Used in Bad Faith

The Complainant provided evidence proving the start of its business in January 2013, which has not been rebutted by the Respondent (Annex 6). Moreover, the trademark registrations submitted by the Complainant show that the application for the mark CARVANA was made in 2011. The Panel thus accepts the Complainant’s contention that the trademark CARVANA was filed and was in use at the time of the registration of the disputed domain name on February 24, 2013.

The Panel believes that the additional same letter (“n” in this case) is a blatant example of typosquatting thus bad faith where the spelling of a trademark has been altered by the addition of only one letter.

As the Complainant submits, considering that CARVANA is a coined word, it is inconceivable that the Respondent would not have known of the Complainant’s trademark. The Respondent did not oppose such arguments.

The fact that the disputed domain name used to redirect to the Complainant’s Website and it currently resolves to a PPC page comprising the links relating to car financing, car services, car deals as well as the links containing the Complainant’s trademark mark “Carvana used car”, “Carvana certified cars” and “Carvana used Suvs” corroborates the Panel’s finding that the disputed domain name was obviously registered by the Respondent with the Complainant in mind.

Noting the absence of any submission from the Respondent to the contrary, the fact that the website resolved to Complainant's Website and currently contains links relating to the trademark of the Complainant and the services provided by the Complainant, it is unequivocally clear that this registration was made without the consent of the Complainant and in order to take advantage of the Complainant's mark.

According to [WIPO Overview 3.0](#), section 3.5, the fact that PPC links are generated by a third party, or the fact that the respondent itself may not have directly profited, would by itself not prevent a finding of bad faith. Several panels have held that a respondent cannot disclaim responsibility for content with respect to "automatically" generated PPC links. Therefore, bad faith exists even if the Respondent could argue that it was unaware of the monetized parking page associated with the disputed domain name.

Lastly, the Panel notes the reputation of the Complainant's mark, repetition typo variation reinforces the bad faith intention of typosquatting by the Respondent.

It is not plausible that the disputed domain name was legitimately registered without the intention in some way or another to take unfair advantage of the similarity between the disputed domain name and the Complainant's trademark.

Therefore, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith.

The Complainant has established the requirements 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 <carvanna.com> be transferred to the Complainant.

/Emre Kerim Yardimci/

Emre Kerim Yardimci

Sole Panelist

Date: November 21, 2022