

## **ADMINISTRATIVE PANEL DECISION**

**ETrawler Unlimited Company v. Cartrawaler Car, Cartwaler**  
Case No. D2022-3594

### **1. The Parties**

The Complainant is ETrawler Unlimited Company, Ireland, internally represented.

The Respondent is Cartrawaler Car, Cartwaler, Brazil.

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

The disputed domain name <cartrawaler.com> is registered with Google LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 29, 2022. On September 29, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Registrar also informed that the language of registration agreement is Portuguese. The Center sent an email communication to the 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. On the same day, the Center informed the Complainant that the language of registration agreement differed from the language of the Complaint. The Complainant filed an amended Complaint with the registrant information and an amendment to the Complaint with the request for English to be the language of proceeding on October 7, 2022.

The Center verified that the Complaint, together with the amended Complaint and 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 October 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 16, 2022. The Respondent did not file a formal Response, but sent an informal email on October 7, 2022.

The Center appointed Gonçalo M. C. Da Cunha Ferreira as the sole panelist in this matter on December 1, 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 CarTrawler group is a leading B2B provider of technology solutions for the global travel industry and has been in operation since 2004 and extensively uses the registered trademark CARTRAWLER including in respect of its website “cartrawler.com”. The Complainant owns several trademark registrations for the name CARTRAWLER including the European Union Trademark registration no. 004640471, renewed on October 4, 2015 and the United States of America Trademark registration no. 3453769, renewed on June 24, 2008.

The disputed domain name was registered on July 29, 2022 and resolves to an inactive website.

#### **5. Parties' Contentions**

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

The Complainant claims that:

- a) The Respondent's domain name <cartrawler.com> is confusingly similar to CarTrawler's trademark and domain name, <cartrawler.com>.
- b) The disputed domain is simply a misspelling of our domain name by adding to it the letter “a”.
- c) There is phonetical and visually confusing similarity with CarTrawler's domain name.
- d) The Respondent has not been commonly known by the domain name nor have they used the domain name in connection with a *bona fide* offering of goods or services before the notice of this complaint.
- e) The disputed domain name was registered and is being used in bad faith.
- f) The Respondent will intentionally attract Internet users to their website by creating a likelihood of confusion with the Complainant's trademark.

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

The Respondent did not file a formal Response and sent an informal email on October 7, 2022, just asking for more details, but did not reply to the Complainant's contentions.

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

##### **6.1. Preliminary Matter – Language of the Proceeding**

The Complainant requests that the language of proceedings be English, as at the time he submitted the Complaint, the Respondent appeared to be a company based in Toronto, Canada, another English speaking jurisdiction. The Panel notes that the language of the registration agreement for the disputed domain name was Portuguese.

Moreover, the Panel notes that the Center's communications to the Parties have been transmitted in both English and Portuguese. The Panel would have accepted a response in either English or Portuguese, however, no formal response was received from the Respondent. Having considered all the circumstances above, the Panel determines under paragraph 11(a) of the Rules that the language of this proceeding is English.

## **6.2. Substantive Matters**

Paragraph 15(a) of the Rules instructs the Panel to decide the Complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the Complainant must prove each of the following:

- (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.

Paragraph 4(b) of the Policy sets out four non-exhaustive illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three non-exhaustive illustrative circumstances any one of which, if prove by the Respondent, shall be evidence of the Respondent's rights to or legitimate interests in the disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

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

The disputed domain name incorporates the Complainant's trademarks CARTRAWLER just with a simple misspelling of the Complainant's trademark by adding to it the letter "a".

As the trademarks are clearly recognizable within the disputed domain name, the misspelling of this word by adding to it the letter "a" does not prevent a finding of confusing similarity.

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

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

The Respondent has not been commonly known by the domain name nor have they used the domain name in connection with a *bona fide* offering of goods or services before the notice of this Complaint.

As highlighted in several previous UDRP decisions, in such a case the burden of production shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 2.1). The Respondent did not submit a response and has failed to invoke any circumstance which could have demonstrated rights or legitimate interests in the disputed domain name under paragraph 4(c) of the Policy.

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

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

The Panel accepts and agrees with the Complainant's that the disputed domain name was registered and

has been used in bad faith, as no plausible explanation was provided by the Respondent and the way the disputed domain name was registered (with a misspelling of the Complainant's trademark), the Panel finds that the Respondent knew about the Complainant.

The passive holding of the disputed domain name does not prevent a finding of bad faith (see [WIPO Overview 3.0](#), section 3.3).

The Panel finds that the Respondent registered and is using the disputed domain name 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 <cartrawaler.com> be transferred to the Complainant.

*/Gonçalo M. C. Da Cunha Ferreira/*

**Gonçalo M. C. Da Cunha Ferreira**

Sole Panelist

Date: December 19, 2022