

ADMINISTRATIVE PANEL DECISION

Carvana, LLC v. Carolina Rodrigues, Fundacion Comercio Electronico
Case No. D2022-4447

1. The Parties

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

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

2. The Domain Name and Registrar

The disputed domain name <carvanavscars.com> (the “Domain Name”) 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 November 21, 2022. On November 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 22, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the 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 November 23, 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 November 23, 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 November 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 15, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 20, 2022.

The Center appointed Ian Lowe as the sole panelist in this matter on December 27, 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 company based in Arizona, United States. It is an e-commerce platform for buying and selling used cars launched in January 2013. It currently operates in more than 266 markets, covering more than 81% of the United States population. In 2021, it sold over 425,237 vehicles to retail customers with sales revenue exceeding USD 9.9 billion. Its primary website at “www.carvana.com” averages more than 17.8 million unique visitors each month.

The Complainant is the proprietor of several United States trademark registrations comprising CARVANA, including trademark number 4,328,785 CARVANA registered on April 30, 2013 and trademark number 6,037,392 stylised word mark CARVANA registered on April 21, 2020.

The Domain Name was registered on June 1, 2022. It currently resolves to a website access to which is apparently blocked. When the Panel entered the website address “www.carvanavscars.com”, the browser returned a warning that the website was infected with malicious code. At the time of preparation of the Complaint, the Domain Name resolved variously to a portal of links to pages of click-through advertising links to a number of third-party websites, including those of competitors of the Complainant, and to a page inviting a “security check”, a well-documented phishing technique.

The Complainant has prevailed in previous UDRP complaints against the same Respondent in which it successfully relied on its rights in the CARVANA trademark¹.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its CARVANA trademark, that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered and is using the Domain Name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

B. Respondent

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

6. Discussion and Findings

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the Domain Name is confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and

¹ *Carvana, LLC v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1376](#); *Carvana, LLC v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-2191](#); *Carvana, LLC v. Registration Private of Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-2256](#).

(iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has uncontested rights in its CARVANA trademark, both by virtue of its trademark registrations and as a result of its widespread use of the mark over a number of years. Ignoring the generic Top-Level Domain (“gTLD”) “.com”, the Domain Name comprises the entirety of the Complainant’s CARVANA trademark together with the terms “vs” and “cars”. In the view of the Panel, the addition of these terms does not prevent a finding of confusing similarity between the Domain Name and the Complainant’s mark.

Accordingly, the Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has made out a strong *prima facie* case that the Respondent could have no rights or legitimate interests in respect of the Domain Name. The Domain Name is not being used for an active website but to resolve to a website apparently primed to distribute malware, or for a webpage of links comprising in turn click through links to third party websites including the websites of competitors of the Complainant. In the Panel’s view, it is difficult to conceive a legitimate purpose for registering a domain name comprising the entirety of the Complainant’s CARVANA trademark or any possible justification for the Respondent having registered the Domain Name. It could only have been registered to deceive Internet users into believing that it had been registered by or operated on behalf of the Complainant and for purposes likely associated with phishing or other improper activities.

The Respondent has chosen not to respond to the Complaint to explain its registration or use of the Domain Name, or to take any other steps to counter the *prima facie* case established by the Complainant.

In the circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the Domain Name.

C. Registered and Used in Bad Faith

In light of the nature of the Domain Name, there is little doubt that the Respondent had the Complainant and its rights in the CARVANA mark in mind when it registered the Domain Name, particularly given the Respondent’s history of registering other domain names taking unfair advantage of the Complainant’s mark. As set out above, the only possible inference is that the Respondent registered the Domain Name for commercial gain with a view to taking unfair advantage of the Complainant’s rights in the mark and to confuse Internet users into believing that the Domain Name was being operated by or authorized by the Complainant.

In the Panel’s view, using the Domain Name for a website comprising pay-per-click links to third party websites amounts to paradigm bad faith registration and use for the purposes of paragraph 4(a) of the Policy. The Panel further considers on balance that the Respondent has intentionally attempted to attract Internet users to its website by creating a likelihood of confusion with the Complainant’s mark in order to install malware onto the user computer with a view to profit-making. As the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) points out at section 3.1.4 “such behaviour is manifestly considered evidence of bad faith”.

Accordingly, the Panel finds that the Domain Name has been registered and is being used in bad faith.

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 Domain Name <carvanavscars.com> be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: January 5, 2023