

ADMINISTRATIVE PANEL DECISION

Averitt Express, Inc. v. Kenny Wright, Wright Media, LLC
Case No. D2024-4504

1. The Parties

Complainant is Averitt Express, Inc., United States of America ("United States"), represented by Adams and Reese LLP, United States.

Respondent is Kenny Wright, Wright Media, LLC, United States.

2. The Domain Name and Registrar

The disputed domain name <averitttruckingjobs.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 November 1, 2024. On November 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 1, 2024, 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 (Registration Private, Domains By Proxy, LLC, DomainsByProxy.com) and contact information in the Complaint. The Center sent an email communication to Complainant on November 4, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on November 7, 2024.

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 Respondent of the Complaint, and the proceedings commenced on November 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 27, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on December 13, 2024.

The Center appointed Georges Nahitchevansky as the sole panelist in this matter on December 13, 2024. 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

Complainant, Averitt Express, Inc., is a freight transportation and supply chain management provider in the United States. Complainant has used the names and marks AVERITT and AVERITT EXPRESS in connection with its transportation services and owns several trademark registrations for those marks. These include, inter alia, (i) registrations for AVERITT and AVERITT EXPRESS in the United States (Registration Nos. 2616865 registered on September 10, 2002, and 2619908 registered on September 17, 2002); and (ii) registrations for AVERITT and AVERITT EXPRESS in Canada (Registration Nos. TMA958423 registered on December 20, 2016, and TMA958422 registered on December 20, 2016). Complainant also owns and uses the domain name <averitt.com> for a website concerning Complainant and its services. Complainant also owns a number of other domain names based on the AVERITT name and mark.

Respondent appears to have registered the disputed domain name on December 9, 2021. At some point thereafter, the disputed domain name was used with a registrar pay per click page generated through GoDaddy.com that featured links to trucking and transportation offerings.

On October 9, 2024, Complainant completed a "Domain Holder Contact Request Form" through GoDaddy.com concerning the disputed domain name. No response was ever received from Respondent. Currently, the disputed domain name does not resolve to an active website or web page.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, Complainant contends that it is a leading freight transportation provider in the United States and that it has used its AVERITT and AVERITT EXPRESS marks with its transportation services since as early as 1969 and 1971, respectively.

Complainant asserts that the disputed domain name is identical or confusingly similar as it fully incorporates the AVERITT mark with the non-distinguishing generic words "trucking jobs," words that directly relate to the services offered by Complainant under its AVERITT mark.

Complainant maintains that Respondent does not have legitimate interests in the disputed domain name as Respondent (i) is not commonly known by the AVERITT name and mark, (ii) is not a licensee of Complainant and has not been given any rights in the AVERITT mark, and (iii) has not made any legitimate use of the disputed domain name as Respondent has used the disputed domain name with a page containing pay-per-click links to websites offering trucking and transportation services that are identical to those offered by Complainant.

Lastly, Complainant argues that Respondent has registered and used the disputed domain name in bad faith as the disputed domain name was registered well after Complainant made extensive use of its AVERITT marks for over 50 years. Complainant maintains that Respondent was likely aware of Complainant given that "Respondent specializes in recruitment and media solutions for the trucking and transportation industry" and has used the disputed domain name with a page full of pay-per-click links offering services identical to

those offered by Complainant. Additionally, Complainant argues that Respondent's bad faith is further established by the fact that Respondent has registered multiple domain names incorporating the names and marks of other established transportation businesses.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) 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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Complainant has shown rights in its AVERITT mark for purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. As the AVERITT mark is clearly recognizable in the disputed domain name, the disputed domain name is confusingly similar for purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the words "trucking jobs" at the tail of the disputed domain name may bear on the assessment of the second and third elements, the Panel finds the addition of such words does not prevent a finding of confusing similarity between the disputed domain name and the mark for purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted

Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Respondent's registration of the disputed domain name is clearly based on the AVERITT mark and does not seem coincidental, particularly as Respondent has included the words "trucking jobs" at the tail of the disputed domain name which directly relate to the very services offered by Complainant under the AVERITT mark. Indeed, beyond the fact that the disputed domain name has been used with pay-per-click links related to the specific services offered by Complainant, the disputed the disputed domain name as constituted carries a high degree of implied affiliation and is likely to be mistakenly seen by consumers as related to Complainant and for possible jobs with Complainant. As such, it is hard to see how Respondent could have any rights or legitimate interests in the disputed domain name. [WIPO Overview 3.0](#) at section 2.5.1.

The Panel finds the second element of the Policy has been established

C. Registered and Used in Bad Faith

The Panel notes that, for purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In view of Respondent's actions, and failure to appear in this proceeding, it is easy to infer that Respondent's registration and use of the disputed domain name, which is clearly based on Complainant's AVERITT mark in relation to trucking services, has been done opportunistically and in bad faith for the benefit or profit of Respondent. The disputed domain name on its face suggests a connection to Complainant and possible trucking jobs with Complainant and was registered well after Complainant had established rights in its AVERITT mark. Moreover, given that Respondent appears to have registered a number of other domain names that incorporate the marks of others in the transportation industry, Respondent's registration of the disputed domain name seems even more suspect. In all, Respondent's actions make it more probable than not that Respondent was fully aware of Complainant and its AVERITT name when it registered the disputed domain name for Respondent's benefit.

The Panel thus finds that Complainant has established the third element 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 <averitttruckingjobs.com> be transferred to Complainant.

/Georges Nahitchevansky/

Georges Nahitchevansky

Sole Panelist

Date: December 27, 2024