

ADMINISTRATIVE PANEL DECISION

Avaya LLC v. Nick Pitzafferro, A5 Capital Partners LLC
Case No. D2026-2500

1. The Parties

The Complainant is Avaya LLC, United States of America ("United States"), represented by Mitchell Silberberg & Knupp LLP, United States.

The Respondent is Nick Pitzafferro, A5 Capital Partners LLC, United States.

2. The Domain Name and Registrar

The disputed domain name <avaya-authorized-partner.com> is registered with CloudFlare, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 8, 2026. On June 10, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same date, 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 (DATA REDACTED) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 11, 2026, 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 June 16, 2026, and an amendment to the Complaint on June 17, 2026.

The Center verified that the Complaint together with the amended Complaint and 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 June 18, 2026. In accordance with the Rules, paragraph 5, the due date for Response was July 8, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Parties of the Respondent's default on July 9, 2026.

The Center appointed Ingrida Kariņa-Bērziņa as the sole panelist in this matter on July 16, 2026. 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 Delaware corporation with its principal place of business in New Jersey, United States. It markets hardware and software networking and telecommunications products under the AVAYA mark and is the proprietor of numerous trademark registrations, including the following:

- United States Trademark Registration No. 2696985 for AVAYA (word mark), registered on March 18, 2003 for goods and services in classes 9, 35, 37, and 42;
- United States Trademark Registration No. 3507805 for AVAYA (word mark), registered on September 30, 2008 for goods in class 25; and
- United States Trademark Registration No. 8133960 for AVAYA (word mark), registered on February 10, 2026 for services in class 42.

The Complainant operates its primary business website at the domain name <avaya.com>.

The disputed domain name was registered on April 1, 2026. At the time of this Decision, it did not resolve to an active website. The record reflects that it previously resolved to a website purportedly offering AVAYA-branded software products/services and featuring the Complainant's AVAYA mark and the following statement: "Enterprise AVAYA IP Phones, Contact Center & Unified Communications – Authorized Dealer".

On April 22, 2026, the Complainant sent the Registrar an email and submitted a complaint via an online form, requesting that the Registrar cease providing services to the Respondent's website. On May 6, 2026, the Complainant sent a cease-and-desist letter to the Respondent. The record does not reflect a response thereto.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that it has sold computer hardware and software products under the AVAYA marks since 2000 and has accrued considerable goodwill in the AVAYA mark, which has a strong reputation. The disputed domain name reflects the AVAYA mark in its entirety, together with the misleading term "authorized partner." The Respondent is not affiliated with the Complainant and has no right to present itself as an authorized partner. The disputed domain name was registered to mislead Internet users. The Respondent is using the disputed domain name for a website on which it claims to be an authorized partner of the Complainant and offers products and services that purportedly originate with the Complainant. Using a privacy service and failing to respond to the Complainant's cease-and-desist letter is further evidence of bad faith.

The Complainant requests transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires the Complainant to make out all three 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 Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

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 Select UDRP Questions ("[WIPO Overview 3.1](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.2.1.

The entirety of the AVAYA mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.7.

Although the addition of other terms (here, "authorized" and "partner") may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.1](#), 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 that 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 3.1](#), section 2.1.

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

In particular, the Panel notes that the disputed domain name reflects the entirety of the Complainant's AVAYA mark, followed by the terms "authorized" and "partner," indicating an affiliation with the Complainant. Such a composition, on balance, signals an intention on the part of the Respondent to mislead users into believing the disputed domain name is operated by the Complainant or indeed its authorized partner and cannot lead to a finding that the Respondent has rights or legitimate interests in the disputed domain name. [WIPO Overview 3.1](#), section 2.5.1.

The Panel does not find that the record supports a finding that the Respondent is commonly known by the disputed domain name or is making legitimate noncommercial use of it. The record indicates that the disputed domain name previously resolved to a website featuring the Complainant's mark and purportedly offering AVAYA-branded software products/services, claiming the status of an "authorized dealer" of the Complainant, contrary to the fact. Panels have held that the use of a domain name for illegitimate activity (here, claimed passing off) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.1](#), section 2.13.1.

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

C. Registered and Used in Bad Faith

The Panel notes that, for the 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 the present case, the Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark. The Complainant's rights in the AVAYA mark predate the registration of the disputed domain name by more than 20 years. The inherently misleading disputed domain name contains the Complainant's established AVAYA mark together with the terms "authorized" and "partner," which creates a risk of confusion reinforced by the use of the disputed domain name for a website posing off as a Complainant's "authorized dealer". Accordingly, the Panel finds that the disputed domain name was registered in bad faith. [WIPO Overview 3.1](#), section 3.1.4.

The record reviewed by the Panel leaves no doubt that the Respondent selected the disputed domain name that reflects the Complainant's earlier mark and proceeded to use it for a business purportedly related to the Complainant. The evidence in the case file as presented indicates that the Respondent's aim in registering the disputed domain name was to profit from or exploit the Complainant's trademark.

The Panel finds that the Respondent registered and used the disputed domain name, which reflects the Complainant's well-established mark, in bad faith for the Respondent's commercial gain. See paragraph 4(b)(iv) of the Policy. The current passive holding of the disputed domain name does not prevent a finding of bad faith in the circumstances of this case.

On this record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the 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 <avaya-authorized-partner.com> be transferred to the Complainant.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: July 30, 2026