

ADMINISTRATIVE PANEL DECISION

Carvana, LLC v. Bianca Mack

Case No. D2022-3853

1. The Parties

The Complainant is Carvana, LLC, United States of America ("United States"), internally represented.

The Respondent is Bianca Mack, Guam, United States.

2. The Domain Name and Registrar

The disputed domain name <carvana-deu.com> is registered with Nicenic International Group Co., Limited (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 13, 2022. On October 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 15, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on November 2, 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 2, 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 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 23, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 25, 2022.

The Center appointed William F. Hamilton 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 Complainant is a leading e-commerce platform for buying and selling used cars. The Complainant operates in more than 265 markets in the United States. In 2020, the Complainant sold more than 240,000 vehicles.

The Complainant's primary website is reached through the domain name <carvana.com>. The Complainant's website has more than 8.5 million unique visitors each month.

The Complainant owns several registrations for the trademark CARVANA (the "Mark") with the United States Patent and Trademark Office including, but not limited to, Registration No. 4,328,785 registered on April 30, 2013.

The disputed domain name was registered on September 25, 2022. The disputed domain name initially resolved to a website that mirrored the look and feel of the Complainant's website, reproduced the Mark, and purportedly offered the Complainant's services in the automotive sector. The disputed domain name currently does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant asserts the disputed domain name is confusingly similar to the Mark because the disputed domain name is composed by adding the expression "-deu" as a suffix to the Mark. The Complainant suggests that the added suffix is an abbreviation of the German word "Deutsche".

The Complainant asserts that the Complainant has never authorized the Respondent to use the disputed domain name, that the Respondent is not generally known by the disputed domain name, and that the Respondent has never engaged in any *bona fide* commercial activity in connection with the disputed domain name.

The Complainant asserts that the Respondent registered and used the disputed domain name in bad faith to lure unsuspecting Internet users for illicit commercial purposes to its fraudulent, counterfeit website that mirrored the look and feel of the Complainant's website.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel finds that the disputed domain name is confusingly similar to the Complainant's Mark.

The disputed domain name is composed of the Complainant's Mark plus the suffix "-deu". The mere addition to the Mark of this term does not avoid a finding of confusing similarity. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8 ("where the relevant trademark is recognizable with the disputed domain name, the additions of other terms (whether descriptive, geographic, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element").

The generic Top-Level Domain (“gTLD”) of the disputed domain name, in this case “.com”, may be disregarded for the purposes of assessment under the first element, as it is viewed as a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1.

The Complainant has met its burden under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name

The Complainant has specifically disavowed providing the Respondent with permission to use the disputed domain name or the Mark. The Respondent is not affiliated with the Complainant in any way and does not have any business relationship with the Complainant. There is no evidence that the Respondent has conducted any *bona fide* business under the disputed domain name or is commonly known by the disputed domain name. *Compagnie de Saint Gobain v. Com-Union Corp*, WIPO Case No. [D2000-0020](#).

The fact that the disputed domain name initially resolved to a website impersonating the Complainant, purportedly offering the Complainant’s services in the automotive sector and reproducing the Mark, can never confer rights or legitimate interests in the disputed domain name on the Respondent. See [WIPO Overview 3.0](#), section 2.13.1 and Section C below.

The Complainant has thus established a *prima facie* case in its favor, which shifts the burden of production on this point to the Respondent. The Respondent, however, has failed to come forth with any evidence showing any rights or legitimate interests in the disputed domain name.

The Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following scenarios:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent’s documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the respondent’s website or location or of a product or service on the respondent’s website or location.

The Panel finds the disputed domain name was registered and is being used in bad faith.

The Panel finds no evidence to suggest that the Respondent innocently registered and used the disputed domain name in good faith where (i) the disputed domain name adopts the Complainant’s well-known Mark without alteration, (ii) adds the term “deu” as a suffix to suggest a German location or sale of German cars, (iii) resolves to a website with the look and feel of the Complainant’s website, and (iv) where the

Respondent's website prominently featured the Complainant's Mark (and figurative trademark) and even a photograph of the Complainant's CEO while purporting to offer cars for sale. Rather, taking these circumstances into consideration, the Panel finds 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 has met its burden under 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 <carvana-deu.com> be transferred to the Complainant.

/William F. Hamilton/

William F. Hamilton

Sole Panelist

Date: December 14, 2022