

ADMINISTRATIVE PANEL DECISION

Carvana, LLC v. 杨智超 (Zhi Chao Yang)

Case No. D2022-3869

1. The Parties

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

The Respondent is 杨智超 (Zhi Chao Yang), China.

2. The Domain Names and Registrar

The disputed domain names <carvanaaaauto.com>, <carvanaatuo.com>, <carvanaauot.com>, <carvanaauro.com>, <carvanaaut0.com>, <carvanaauti.com>, <carvanaautoo.com>, <carvanaautp.com>, <carvanaayto.com>, <carvansauto.com>, <carvsnaauto.com>, <carvvanaauto.com>, <catvanaauto.com>, <cavvanaauto.com>, <ccarvanaauto.com>, <comcarvanaauto.com>, <crvanaauto.com>, <mycarvanaauto.com>, <varvanaauto.com>, <xarvanaauto.com>, <caarvanaauto.com>, <caevanaauto.com>, <caravnaauto.com>, <carrvanaauto.com>, <carvaanauto.com>, <carvabaaauto.com>, <carvamaaauto.com>, <carvanauato.com>, <cravanaauto.com>, and <arvanaauto.com> (the "Disputed Domain Names") are registered with Cloud Yuqu LLC (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on October 14, 2022. On October 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On October 19, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On October 19, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On the same day, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

The Center verified that 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 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 14, 2022. The Respondent did not submit any Response. Accordingly, the Center notified the Respondent's default on November 15, 2022.

The Center appointed Kar Liang Soh as the sole panelist in this matter on November 25, 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 Fortune 500 company and a leading e-commerce platform for buying and selling used cars. Since 2013, the Complainant has been providing online vehicle dealership and financing services under the trademark CARVANA via its website under the domain name <carvana.com>. The website averages over 17.8 million unique visitors each month. The Complainant has sold over 425,000 vehicles amounting to USD 12.8 billion in sales revenue. The Complainant also operates over 30 vending machines in major cities across the United States.

The Complainant owns several trademark registrations incorporating the word "carvana" including

Jurisdiction	Trademark No.	Registration Date
United States	4,328,785	April 30, 2013
United States	4,971,997	June 7, 2016
United States	5,022,315	August 16, 2016

The CARVANA mark has been the subject of many prior domain name disputes (e.g., *Carvana, LLC v. Registration Private, Domains By Proxy, LLC / Cline Davis*, WIPO Case No. [D2020-0859](#); *Carvana, LLC v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2020-1533](#); *Carvana, LLC v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Ferel Demis*, WIPO Case No. [D2020-2032](#); *Carvana, LLC v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-2191](#); *Carvana, LLC v. Domain Administrator, Fundacion Privacy Services Ltd*, WIPO Case No. [D2020-2348](#); *Carvana, LLC v. Privacydotlink Customer 2659160 / Gary Sandor*, WIPO Case No. [DCO2020-0056](#); *Carvana, LLC v. Paul Warnert*, WIPO Case No. [D2021-0605](#)). The learned panels in *Carvana, LLC v. Domain Administrator, Fundacion Privacy Services Ltd*, WIPO Case No. [D2020-2348](#), and *Carvana, LLC v. Paul Warnert*, WIPO Case No. [D2021-0605](#), have also found the trademark CARVANA to be well known.

The Respondent appears to be an individual. Little is known about the Respondent beyond the Complaint and the Registrar's verification in this proceeding. The Respondent's facsimile number and address as provided in the Registrar's verification appear to be invalid or ineffective for purposes of communication with the Respondent.

The Disputed Domain Names were all registered on October 6, 2022. On or about October 12, 2022, each of the Disputed Domain Names resolved to similar parking webpages containing prominent banners entitled "Used Cars Online", "Carvana Cars For Sale", and "Buying Cars Online".

5. Parties' Contentions

A. Complainant

The Complainant contends that:

- 1) The Disputed Domain Names are identical or confusingly similar to the Complainant's trademark CARVANA. The Disputed Domain Names incorporate the Complainant's trademark CARVANA in its entirety except that each adds the descriptive word "auto" or a misspelling of "auto". The addition of the word "auto" to the trademark CARVANA does not obviate confusion but in fact enhances confusion;
- 2) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Names. The Respondent is in no way associated with the Complainant and has never sought or received authorization or a licence to use the trademark CARVANA. The trademark CARVANA is known. There is no indication that the Respondent is commonly known under the Disputed Domain Names. The mark CARVANA is an invented word. Others would not choose this name unless seeking to create an impression of an association with the Complainant. The Disputed Domain Names serve as bait to attract customers to the Respondent's websites. The Respondent is not making any legitimate non-commercial or fair use of the Disputed Domain Names. The Respondent registered the Disputed Domain Names to confuse, mislead, deceive, and divert customers; and
- 3) The Disputed Domain Names were registered and are being used in bad faith. The Disputed Domain Names are designed to trade on the reputation and goodwill of the Complainant and its trademark CARVANA for financial gain. The Respondent is using the Disputed Domain Names for parked pages with third party links and thereby prevent the Complainant from reflecting its mark in a corresponding domain name. All Disputed Domain Names were registered on the same day by the same person for the same purpose of hosting pay-per-click ads and typosquatting. The Respondent plainly knew of the trademark CARVANA. It is inconceivable that the Respondent registered the Disputed Domain Names without such knowledge.

B. Respondent

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

6. Discussion and Findings

6.1 Language of the Proceeding

As the Registration Agreement is in the Chinese language, the default language of the proceeding should be Chinese in accordance with paragraph 11(a) of the Rules. The Complainant has requested that English be adopted as the language of the proceeding. The Panel is empowered by the Rules to determine the language of the proceeding. Having considered the circumstances, the Panel grants the Complainant's request to adopt English as the language of this proceeding. In doing so, the following factors were considered:

- a) the Complaint has already been submitted in English;
- b) the Respondent did not submit any Response;
- c) the Respondent did not object to the Complainant's request for English to be adopted;
- d) the Complainant has confirmed that it has no knowledge of Chinese, and that it would suffer undue burden to translate the Complaint into Chinese;

- e) the Respondent appears conversant in English as evidenced by the purely English-language webpages resolved from the Disputed Domain Names;
- f) no procedural benefit would be achieved by insisting that the default language of the proceeding be maintained. Instead, unnecessary delay of the proceeding will surely arise if such a requirement were to be imposed in this proceeding; and
- g) the Panel is bilingual and conversant in English and Chinese. Had the Respondent opted to submit a Response, any communication or documents in Chinese, the Panel would have been equally equipped to review and consider them fairly and expediently. In any event, the Respondent has not submitted any response, communication, or documents.

6.2 Discussion

In order to succeed in this proceeding, the Complainant must establish all three limbs of paragraph 4(a) of the Policy, namely:

- a) the Disputed Domain Names are identical or confusingly similar to a trademark in which the Complainant has rights;
- b) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Names; and
- c) The Disputed Domain Names were registered and are being used in bad faith.

The Panel will consider each of these limbs in turn.

A. Identical or Confusingly Similar

The Complainant has tendered unequivocal evidence of various trademark registrations which demonstrate its rights in the trademark CARVANA. Despite the typographical variations of the word “carvana” and the suffix “auto” (or typographical variations thereof) incorporated in all the Disputed Domain Names, the trademark CARVANA remains prominently and readily recognizable in every one of them. For completeness, the specific typographical variations are outlined below:

Disputed Domain Name	CARVANA variation	“auto” suffix variation
<carvanaaaauto.com>	No variation	No variation
<carvanaatuo.com>	No variation	Misspelled “atuo”
<carvanaauot.com>	No variation	Misspelled “auot”
<carvanaauro.com>	No variation	Misspelled “auro”
<carvanaaut0.com>	No variation	Misspelled “aut0”
<carvanaauti.com>	No variation	Misspelled “auti”
<carvanaautoo.com>	No variation	Misspelled “autoo”
<carvanaautp.com>	No variation	Misspelled “autp”
<carvanaayto.com>	No variation	Misspelled “ayto”
<carvansauto.com>	Misspelled “carvans”	No variation
<carvsnaauto.com>	Misspelled “carvsna”	No variation
<carvvanaauto.com>	Misspelled “carvvana”	No variation
<catvanaauto.com>	Misspelled “catvana”	No variation
<cavvanaauto.com>	Misspelled “cavvana”	No variation
<ccarvanaauto.com>	Misspelled “ccarvana”	No variation
<comcarvanaauto.com>	Prefixed “com”	No variation
<crvanaauto.com>	Misspelled “crvana”	No variation
<mycarvanaauto.com>	Prefixed “my”	No variation
<varvanaauto.com>	Misspelled “varvana”	No variation
<xarvanaauto.com>	Misspelled “xarvana”	No variation

Disputed Domain Name	CARVANA variation	“auto” suffix variation
<caarvanaauto.com>	Misspelled “caarvana”	No variation
<caevanaauto.com>	Misspelled “caevana”	No variation
<caravnaauto.com>	Misspelled “caravna”	No variation
<carrvanaauto.com>	Misspelled “carrvana”	No variation
<carvaanauto.com>	Misspelled “carvaan”	No variation
<carvabaaauto.com>	Misspelled “carvaba”	No variation
<carvamaauto.com>	Misspelled “carvama”	No variation
<carvanauato.com>	No variation	Misspelled “uato”
<cravanaauto.com>	Misspelled “cravana”	No variation
<arvanaauto.com>	Misspelled “arvana”	No variation

The disingenuous variations adopted in the Disputed Domain Names do not prevent the Panel’s finding of the trademark CARVANA being recognizable within the Disputed Domain Names. Further, in accordance with the consensus opinion of past panels outlined in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.11.1, the generic Top-Level Domain “.com” component of the Disputed Domain Names is disregarded in the comparison of the trademark CARVANA and the Disputed Domain Names. The Panel concludes that all the Disputed Domain Names are confusingly similar to the trademark CARVANA and the first limb of paragraph 4(a) of the Policy is established.

B. Rights or Legitimate Interests

The Complainant has stated categorically that it has no association with the Respondent and the Respondent has never sought or received any authorization or licence to use the trademark CARVANA. The Panel agrees with the Complainant that there is no evidence to suggest that the Respondent may be commonly known under any of the Disputed Domain Names. There is also nothing in the evidence to suggest that the Respondent is making any legitimate noncommercial or fair use of any of the Disputed Domain Names. Rather, the Respondent is using the Disputed Domain Names to resolve to websites with pay-per-click links advertising services in direct competition to those of the Complainant and even featuring the Complainant’s mark among the click-through links. The Panel is accordingly satisfied that the Complainant has shown a *prima facie* case that the Respondent has no rights or legitimate interests in any of the Disputed Domain Names. Since the Respondent has not filed any Response, the *prima facie* case has not been rebutted. The second limb of paragraph 4(a) of the Policy is also established on the facts.

C. Registered and Used in Bad Faith

It is evident to the Panel that the Respondent was well aware of the trademark CARVANA at the time the Disputed Domain Names were registered. The website resolved from each of the 30 Disputed Domain Names contained a prominent banner containing the word “carvana”, essentially proclaiming the Respondent’s knowledge of the trademark CARVANA. Such knowledge is further corroborated by accompanying references on the websites about selling cars online, exactly the type of business the Complainant is in. Despite the typographical variations of the word “carvana” adopted by many of the Disputed Domain Names, the exact same references to the trademark CARVANA and online car sales are promoted on the corresponding websites.

In the circumstances, the Panel must agree with the Complainant’s submission that it is inconceivable that the Respondent was ignorant of the trademark CARVANA and that the only plausible reason for the registration of the Disputed Domain Names must be to trade on the reputation and goodwill of the Complainant and its trademark CARVANA for financial gain. This can be seen in every one of the websites resolved from the Disputed Domain Names unapologetically posting prominent banners for online car sales associated with the trademark CARVANA.

The Panel is persuaded that the above situation falls squarely within the form of bad faith registration and use exemplified in paragraph 4(b)(iv) of the Policy which states:

“by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location”.

The Respondent is using the Disputed Domain Names to intentionally attempt to attract, for commercial gain, Internet users to the Respondent’s websites by creating a likelihood of confusion with the trademark CARVANA as to the source, sponsorship, affiliation, or endorsement of every single website resolved from the Disputed Domain Names. The intensity of abusive domain name registration in this proceeding is multiplied by the 30 instances of Disputed Domain Names being concurrently registered and used in bad faith. In addition, the Respondent’s provision of ineffective contact particulars in relation to the registration of the Disputed Domain Names further supports the finding of bad faith.

In the light of the above, the Panel accordingly holds that the third limb of paragraph 4(a) of the Policy is also established.

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 Names <carvanaaaauto.com>, <carvanaatuo.com>, <carvanaauot.com>, <carvanaauro.com>, <carvanaaut0.com>, <carvanaauti.com>, <carvanaautoo.com>, <carvanaautp.com>, <carvanaayto.com>, <carvansauto.com>, <carvsnaauto.com>, <carvvanaauto.com>, <catvanaauto.com>, <cavranaauto.com>, <ccarvanaauto.com>, <comcarvanaauto.com>, <crvanaauto.com>, <mycarvanaauto.com>, <varvanaauto.com>, <xarvanaauto.com>, <caarvanaauto.com>, <caevanaauto.com>, <caravnaauto.com>, <carrvanaauto.com>, <carvaanauto.com>, <carvabaauto.com>, <carvamaauto.com>, <carvanauato.com>, <cravanaauto.com>, and <arvanaauto.com> be transferred to the Complainant.

/Kar Liang Soh/

Kar Liang Soh

Sole Panelist

Date: December 12, 2022