

ADMINISTRATIVE PANEL DECISION

Carvana, LLC v. Domain Administrator, Fundacion Privacy Services LTD
Case No. D2022-4635

1. The Parties

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

The Respondent is Domain Administrator, Fundacion Privacy Services LTD, Panama.

2. The Domain Name and Registrar

The disputed domain name <carvanacarrers.com> (the “Domain Name”) is registered with Media Elite Holdings Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 3, 2022. On December 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 10, 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 and contact information already figuring in the Complaint.

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 December 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 12, 2023.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on January 24, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is an e-commerce platform for buying and selling used cars. It promotes and renders its online vehicle dealership services and online vehicle financing services throughout the United States under the CARVANA trademark and through its primary website “www.carvana.com”. In 2021, the Complainant sold more than 425,237 vehicles to retail customers with used vehicle sales revenue exceeding USD9.9 billion. The Complainant’s website averages more than 17.8 million unique visitors each month.

The Complainant holds several trademark registrations for the CARVANA, such as United States Registration No. 4,328,785 registered on April 30, 2013, and United States Registration No. 5,022,315 registered on August 16, 2016.

According to the Complainant, the Domain Name was registered by the Respondent on July 12, 2022. Before filing of the Complaint, the Domain Name has resolved to the Complainant’s website, but also to a webpage that claims your computer has been infected with a trojan spyware and offers a phone numbers or links to click on to correct. At the time of drafting the Decision, the Domain Name resolved to a pay-per-click search webpage.

5. Parties’ Contentions

A. Complainant

The Complainant documents registered trademark rights and argues that the trademark is distinctive and well-known. The Complainant argues that the Domain Name is confusingly similar to the Complainant’s trademark. The addition of “carrers”, a misspelling of “careers”, does not distinguish the Domain Name from the Complainant’s trademark.

The Complainant points out that the Respondent is not authorized by the Complainant to use the Domain Name. There is no evidence to support that the Respondent is commonly known by the Domain Name. The Respondent cannot establish rights or legitimate interests in the Domain Name, as the Respondent has not made any use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services. The use of the Domain Name – as described above under the factual background - is not *bona fide*, but rather evidence of bad faith. The Respondent has used the Complainant’s trademark as “bait” to attract customers to the Respondent’s sites.

The Complainant submits that its trademark is well known, and the Complainant’s trademark rights are prior to the Respondent’s registration of the Domain Name. The Respondent must have known of the Complainant and its trademark as the Respondent has used to the Domain Name to redirect to the Complainant’s website. Moreover, the Respondent has also used the Domain Name to redirect to a website that appears to be a phishing scam disguised as “security” alerts.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has established rights in its trademark CARVANA. The test for confusing similarity involves a comparison between the trademark and the Domain Name. The Domain Name incorporates the Complainant’s trademark with “carrers” at the end. This does not prevent a finding of confusing similarity.

For the purposes of assessing confusing similarity under paragraph 4(a)(i) of the Policy, it is permissible for the Panel to ignore the generic Top-Level Domain (“gTLD”) as it is viewed as a standard registration requirement, see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) section 1.11.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Respondent is not affiliated with nor authorized by the Complainant. There is no evidence that the Respondent is commonly known by the Domain Name. The Respondent cannot establish rights in the Domain Name, as it has not made use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering. On the contrary, the use suggests bad faith (see below).

The Panel finds that the Complainant has made out a *prima facie* case showing that the Respondent has no rights or legitimate interests in the Domain Name, which has been unrebutted by the Respondent.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant’s trademarks were registered before the Respondent’s registration of the Domain Name. The composition and use of the Domain Name suggest that the Respondent was aware of the Complainant’s trademark when the Respondent registered the Domain Name.

The Domain Name seems to be registered to attract Internet users by misleading them into believing that the initial website at the Domain Name is somehow connected to the Complainant. The use to warn about trojan spyware, as well as the current use to redirect to a pay-per-click search webpage, are evidence of bad faith. The Respondent has not replied to the Complainant’s contentions, and not provided any evidence of good faith use.

The Panel finds that the Domain Name was registered and is being used in bad faith, within the meaning of the 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 Domain Name <carvanacarrers.com> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: January 26, 2023