

## **ADMINISTRATIVE PANEL DECISION**

Averitt Express, Inc. v. Averitt Container, AVERITT CONTAINER  
Case No. D2025-1026

### **1. The Parties**

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

The Respondent is Averitt Container, AVERITT CONTAINER, United States.

### **2. The Domain Name and Registrar**

The disputed domain name <averittcontainers.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 12, 2025. On March 13, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 13, 2025, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 17, 2025, 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 March 19, 2025.

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 the Respondent of the Complaint, and the proceedings commenced on March 24, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 13, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 14, 2025.

The Center appointed Lynda J. Zadra-Symes as the sole panelist in this matter on April 22, 2025. 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 freight transportation and supply chain management provider in the United States. The Complainant and its predecessors have been using the AVERITT and AVERITT EXPRESS marks in connection with transportation services (including transport via shipping containers) since at least as early as 1969 and 1971, respectively. The Complainant advertises its services through various websites, as well as through print media and other advertising and promotional campaigns. The Complainant operates over one hundred locations in the United States and provides freight and other transportation services to over three hundred international destinations in one hundred countries.

The Complainant owns the following registrations for the AVERITT and AVERITT EXPRESS Marks:

Canada	AVERITT	TMA958423	Registered on December 20, 2016
Canada	AVERITT EXPRESS	TMA958422	Registered on December 20, 2016
China	AVERITT	25252236	Registered on July 7, 2018
Mexico	AVERITT EXPRESS	606616	Registered on April 22, 1999
United States	AVERITT EXPRESS	2616865	Registered on September 10, 2002
United States	AVERITT	2619908	Registered on September 17, 2002

The Complainant and its licensees also own many domain names incorporating the AVERITT mark, including but not limited to <averitt.com>, <averitt-express.com> and <averittcontainer.com>. The Complainant operates its principal website at “www.averitt.com” and uses this site to advertise the Complainant’s various transportation and supply chain management services, including storage, tracking, and delivery of freight packages and cargo, and transportation logistics management and services.

The disputed domain name was registered on March 4, 2025. The disputed domain name resolves to a website that displays the Complainant’s official logo, advertises goods and services related to the Complainant, and requests sensitive personal information. The website includes content copied from other sites. In addition, mail exchange (“MX”) records have been created for the disputed domain name.

#### **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 the disputed domain name incorporates the AVERITT mark in its entirety, that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the disputed domain name was registered and is being used in bad faith.

##### **B. Respondent**

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

## 6. Discussion and Findings

### 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.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. The addition of the word "containers" does not avoid a finding of confusing similarity. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 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 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.

There is no evidence that the Respondent is commonly known by the disputed domain name. The Respondent has never been a licensee or franchisee of the Complainant or authorized by the Complainant to register or use the Complainant's AVERITT mark in a domain name. The Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services or in a legitimate noncommercial or fair manner.

Indeed, the record indicates that the Respondent is using the disputed domain name to impersonate the Complainant, presumably in furtherance of a phishing scam, as the disputed domain name directs to a website displaying the Complainant's official logo and collecting sensitive personal information. In addition, the MX record for the disputed domain name indicates that the Respondent may be using the disputed domain name for sending fraudulent emails.

Panels have held that the use of a domain name for such illegal activity can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), 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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent is using the disputed domain name to impersonate the Complainant, presumably in furtherance of a phishing scam, and that the MX record for the disputed domain name indicates that the Respondent may be using the disputed domain name for sending fraudulent emails. Moreover, the Respondent's use of the Complainant's official logo indicates that the Respondent was fully aware of the Complainant's mark at the time of registration and use of the disputed domain name.

The record indicates that the Respondent has registered and used the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark.

In addition, panels have held that the use of a domain name for the type of illegal activity shown here, phishing, impersonation/passing off, or other types of fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the 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 <averittcontainers.com> be transferred to the Complainant.

/Lynda J. Zadra-Symes/  
**Lynda J. Zadra-Symes**  
Sole Panelist  
Date: May 2, 2025