

ADMINISTRATIVE PANEL DECISION

Averitt Express, Inc. v. Foka jarrell
Case No. D2025-1121

1. The Parties

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

Respondent is Foka jarrell, United States.

2. The Domain Name and Registrar

The disputed domain name <averitexpress.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 19, 2025. On March 19, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 20, 2025, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

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 Respondent of the Complaint, and the proceedings commenced on March 26, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 15, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 17, 2025.

The Center appointed Clark W. Lackert as the sole panelist in this matter on April 29, 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

Complainant, the owner and proprietor of the registered trademarks AVERITT and AVERITT EXPRESS (collectively, the “AVERITT Marks”), is one of the leading freight transportation and supply chain management providers in the United States. Complainant and its predecessors have been using the AVERITT Marks in connection with transportation services (including transport via shipping containers) since at least as early as 1969 and 1971, respectively. Complainant advertises its services through various websites, as well as through print media and other advertising and promotional campaigns. Complainant operates over one hundred locations in the United States and provides freight and other transportation services to over three hundred (300) international destinations in one hundred countries.

Since the first use of the AVERITT Marks over fifty years ago, Complainant and its predecessors have promoted the marks continuously and extensively. Complainant spends significant funds each year promoting the AVERITT Marks and the services sold under the marks. Complainant owns valid and subsisting registrations for the AVERITT Marks in Canada, China, Mexico, and the United States, as listed below:

Jurisdiction	Trademark	Registration No.	Registration Date
Canada	AVERITT	TMA958423	December 20, 2016
Canada	AVERITT EXPRESS	TMA958422	December 20, 2016
China	AVERITT	25252236	July 7, 2018
Mexico	AVERITT EXPRESS	606616	April 22, 1999
United States	AVERITT EXPRESS	2616865	September 10, 2002
United States	AVERITT	2619908	September 17, 2002

Complainant owns many domain names incorporating its AVERITT Marks, including <averitt.com>, registered on March 8, 1996.

The disputed domain name was registered on February 3, 2025, and it resolves to a copycat website mimicking Complainant’s official website and has been used to send fraudulent emails.

5. Parties’ Contentions

A. Complainant

The disputed domain name is identical or confusingly similar to the Averitt Marks.

The first and most prominent element of the disputed domain name is “averit,” which is virtually identical in sound and appearance to the AVERITT mark. In addition, the disputed domain name is also a misspelled, typosquatted version of the AVERITT EXPRESS mark and Complainant’s <averittexpress.com> domain name. As many UDRP WIPO panels have recognized, a domain name’s incorporation of a trademark in its entirety, or a close approximation thereof, is sufficient to establish that the domain is identical or confusingly similar to that mark, particularly where the mark is the dominant element of the domain. See, e.g., *Milliman, Inc v. ICS Inc*, WIPO Case No. [D2017-0360](#), (“Confusing similarity will often result where the disputed domain name wholly incorporates or reproduces a principal component of the complainant’s trademark.”); *Berlitz Investment Corporation v. Marcus Santamaria*, WIPO Case No. [D2006-1082](#).

The misspelling in the disputed domain name is insufficient to distinguish the disputed domain name from Complainant's AVERITT Marks. To the contrary, the misspelling seeks to take advantage of the fact that the average consumer, receiving emails from the disputed domain name, likely would not notice the minor variations in the spelling of the sender's email address. "Such common typosquatting tactics . . . are not sufficient to create a distinct mark and lead to likely confusion." *Ross Stores, Inc. v. Domain Admin, Privacy Ltd. Disclosed Agent for YOLAPT / Whois Privacy Services Pty Ltd.*, WIPO Case No. [D2014-1569](#); see also, e.g., *Milliman, Inc. v. PrivacyProtect.org / Telecom Tech Corp.*, WIPO Case No. [D2011-0246](#), (finding the misspelling of MILLIMAN in <millomanonline.com> insufficient to distinguish the domain name, and that the respondent had engaged in typosquatting "to exploit the confusion likely to arise in the minds of Internet users; since 'milloman' sounds virtually identical to 'Milliman' and Internet users are likely to type 'o' instead of the second 'i'").

The disputed domain name is therefore identical or confusingly similar to the AVERITT Marks.

Respondent has no rights or legitimate interests in respect of the disputed domain name.

None of the circumstances provided in Paragraph 4(c) of the Policy for demonstrating a Respondent's rights to and legitimate interests in a domain name are present in this case. To Complainant's knowledge, "Averitt Express" is not Respondent's name, and Respondent is not, and has never been commonly known as "Averitt Express." Respondent is not and has never been a licensee or franchisee of Complainant. Respondent has never been authorized by Complainant to register or use Complainant's Averitt Marks or to apply for or use any domain name incorporating the Averitt Marks. Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, or in a legitimate non-commercial or fair manner. Respondent is using the disputed domain name to defraud consumers, specifically by sending emails intended to deceive unsuspecting consumers into believing that their packages are being held by Customs and that they must pay Respondent an "import fee" to clear their packages for delivery. Use of the disputed domain name for unlawful activity cannot be considered legitimate non-commercial or fair use. See *Averitt Express, Inc. v. WhoisGuard Protected, WhoisGuard, Inc. / Edward M. Gilbert*, WIPO Case No. [D2021-0501](#), (finding that "use of a domain name for phishing schemes can never confer rights or legitimate interests on a respondent"); *Valero Energy Corporation and Valero Marketing and Supply Company v. Contact Privacy Inc. Customer 1246261745 / David M Van Kilsdonk*, WIPO Case No. [D2020-0134](#) (finding, where the respondent had used the disputed domain to impersonate an employee of the complainant by sending emails purporting to be from the complainant's employee to vendors of the complainant, attempting to fraudulently procure the wiring of money, that "[t]he use of the disputed domain name to fraudulently – and perhaps criminally – impersonate the Complainant is a clear example of a respondent lacking rights or legitimate interests").

Respondent is also using the disputed domain name to direct to a copycat website mimicking Complainant's official website by illegally featuring Complainant's trademarks and copyright-protected content. Such fraudulent use does not amount to a bona fide offering of goods or services and cannot be considered legitimate non-commercial or fair use of the disputed domain name. See *Sergio Rossi S.P.A. v. Liu dexing / Name Redacted / Kyu, John Rex / Jia Qi Yuan, Yi Wu Shi Yi Yun Dian Zi Shang Wu You Xian Gong Si*, WIPO Case No. [D2019-2330](#), (finding, where the disputed domain names were used in connection with websites displaying the complainant's trademark and offering for sale the complainant's products, that the display of the complainant's SERGIO ROSSI figurative mark gave the misleading impression that the website was affiliated with, or approved by, the complainant, and accordingly this did not amount to a bona fide offering of goods or services).

Accordingly, Respondent has no rights or legitimate interests in the disputed domain name.

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

Given the trademark registrations for the AVERITT Marks, Complainant's numerous domain names incorporating the AVERITT Marks, Complainant's extensive use and advertising of the AVERITT Marks, and the international reach of Complainant's service offerings, it is not plausible that Respondent could have

been unaware of Complainant at the time of registration. Complainant and its predecessors have used the AVERITT mark for over fifty years, and the mark is highly distinctive and universally associated with Complainant.

Respondent is currently using the disputed domain name in bad faith to perpetuate a fraudulent scheme, whereby Respondent sends emails from the disputed domain name to unsuspecting consumers, urging those consumers to pay Respondent an “import fee” in order to clear their packages for delivery. In doing so, Respondent clearly registered the disputed domain name for commercial gain, and to trade on Complainant’s goodwill and reputation, and may have violated criminal laws in the process. Such fraudulent use of the disputed domain name demonstrates clear bad faith on the part of Respondent. See, e.g., *PN II, Inc. v. Sanais Pulte, Gaba*, WIPO Case No. [D2024-5277](#) (February 4, 2025), (“The bad faith of the use of the disputed domain name is furthermore demonstrated by the fact that Respondent impersonated an employee of the Complainant by sending emails purporting to be from the Complainant, with the intention of fraudulently obtaining goods from a supplier.”)

Respondent’s use of the disputed domain name to direct to a copycat website, which includes a “Contact” form, constitutes additional evidence of bad faith. By using the disputed domain name in this manner, Respondent is passing itself off as Complainant in order to collect personal information from unwitting visitors. Respondent’s unauthorized use of Complainant’s trademarks and copyrighted content on the website associated with the disputed domain name serves as “definitive evidence of Respondent’s bad faith.” *Educational Testing Service v. Ahmed Ali, Tito*, WIPO Case No. [D2018-0173](#) ; see also *Sergio Rossi S.P.A. v. Liu dexing / Name Redacted / Kyu, John Rex / Jia Qi Yuan, Yi Wu Shi Yi Yun Dian Zi Shang Wu You Xian Gong Si*, WIPO Case No. [D2019-2330](#) , (finding bad faith under Paragraph 4(b)(iv) where the respondent had used the domains to resolve to a website displaying the complainant’s trademark and offering for sale the complainant’s products, “giving the misleading impression that it was affiliated with, or approved by, the Complainant”).

Respondent is also using a fake address in connection with the disputed domain name registration, which further supports a finding of bad faith registration and use of the disputed domain name. A search on Google Maps of Respondent’s provided address yields no matching results for any such location, suggesting that Respondent has provided false registration details. In view of the above, Respondent clearly registered and is using the disputed domain name in bad faith.

Respondent’s actions are evidence of bad faith use and registration under Paragraphs 4(b)(iii) and 4(b)(iv) of the Policy.

B. Respondent

Respondent is in default and did not reply to 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 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, with only the removal of one of the “t”s in “Averitt” to create a misspelling of Complainant’s AVERITT EXPRESS trademark. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted 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.

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 notes that Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the complainant’s mark, not just in the registration of the domain name but using it for illegal purposes such as impersonation, a copycat website, and fraudulent email solicitation.

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. Panels have held that the use of a domain name for illegal or fraudulent activity, here, typosquatting, impersonation, false address, use of a copycat website, and use of a fraudulent email account to misdirect funds from Complainant’s customers to itself, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that 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 <averitexpress.com> be transferred to Complainant.

/Clark W. Lackert/

Clark W. Lackert

Sole Panelist

Date: May 9, 2025