

## **ADMINISTRATIVE PANEL DECISION**

DrivenData, Inc. v. Alon Orlitsky, DM

Case No. D2025-2233

### **1. The Parties**

Complainant is DrivenData, Inc., United States of America (“United States”), represented by Casner & Edwards, LLP, United States.

Respondent is Alon Orlitsky, DM, United States.

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

The disputed domain name <drivendata.com> (hereinafter the “Disputed Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 7, 2025. On June 10, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On June 10, 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 June 27, 2025. In accordance with the Rules, paragraph 5, the due date for Response was July 31, 2025. The Response was filed with the Center on July 31, 2025.

The Center appointed Michael A. Albert, Lawrence K. Nodine, and Tony Willoughby as panelists in this matter on September 12, 2025. The Panel finds that it was properly constituted. Each member of 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.

## Procedural Order

In a Procedural Order dated September 22, 2025, the Panel granted Complainant's request to make a supplemental filing to address (i) the Response's compliance with the Rules and the Supplemental Rules; (ii) clarification of certain factual matters; and (iii) Respondent's claim of reverse domain name hijacking. The Order provided that "the Supplement "may include a consideration of WIPO Overview 3.8 and 3.9. The Panel would be particularly interested in any evidence that Complainant has in support of its contention that Respondent's passive holding of the domain name involved fraudulent conduct."

Complainant filed a Supplement on September 27, 2025.

## 4. Factual Background

Complainant is a Delaware corporation engaged in statistical and software services. It is the registered proprietor of United States Trademark Registration No. 7,284,313 DRIVENDATA (standard character mark) registered on January 23, 2024 (application filed on November 22, 2022) in classes 35 (Statistical analysis and reporting services for business purposes) and 42 (Computer software consulting) (the "Mark"). The registration includes a first use in commerce claim of June 18, 2014.

The Disputed Domain Name was registered by Respondent on October 1, 2000. It has never been connected to an active website. Since completing graduate school 39 years ago, Respondent has worked as a researcher and faculty member in information and data science at the University of California San Diego's Data Science Institute.

On December 2, 2014, Complainant emailed Respondent (addressing him as "Professor Orlitsky") at his university email address, stating:

According to the whois database, you are the current owner of drivendata.com. I'm working on a social venture called Drivendata. We run data science competitions to help NGOs, non-profits, and the public sector leverage their data to be more effective and sustainable. You can find out more about what we do at our .org site: <http://www.drivendata.org> We were hoping to also get the .com TLD in addition to the .org address. Looking at the archived versions of the site, it seems to have been inactive for some time now. Would you be open to negotiating the transfer of that domain?

In a subsequent telephone conversation, Respondent said he was not interested in transferring the Disputed Domain Name, but Complainant kept trying. Between 2014 and 2023, Complainant sent at least seven<sup>1</sup> email messages to Respondent's university email address, always addressing Respondent as "Professor Orlitsky." All these messages requested a discussion about transferring the Disputed Domain Name to Complainant. The 2016 message noted "...we have been dealing on and off with .org/.com TLD confusion..."

Respondent did not respond to any of these inquiries.

Complainant continued to use the <drivendata.org> domain name to promote its services. The "About" section of Complainant's current website states:

DrivenData brings the transformative power of data science and AI to organizations tackling the world's biggest challenges. We run online machine learning challenges with social impact, and we work directly with mission-driven organizations to drive change through data

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<sup>1</sup> Complainant sent email messages to Respondent on June 9, 2014; June 20, 2014; December 2, 2014; October 31, 2016; July 9, 2020; November 12, 2021; and October 3, 2022.

science and engineering.

Since 2014 we've worked with more than 80 organizations across 150+ projects in areas like international development, health, education, research and conservation, and public services.

Third parties writing about data science sometimes cited to the Disputed Domain Name when the context indicates that the writer meant to cite to Complainant's <drivendata.org> website.

At some point in time (including 2017 and 2022), Respondent used GoDaddy privacy protection services to mask the display of personal information in Whois records. During this period, the registrant's organization was displayed as "DM".

On September 26, 2024, Complainant's attorney sent Respondent a letter that informed Respondent that Complainant had secured United States Trademark Registration Number 7,284,313 for DRIVEN DATA (registered January 23, 2024). Complainant asserted that Respondent's "continual re-registration of the Domain Name is a false and misleading use of the Mark" and demanded that Respondent transfer the Disputed Domain Name to Complainant.

On September 30, 2024, Respondent responded by email, stating:

I have spent most of my research career working on statistical learning and data-driven algorithms. I registered the driven-data domain while working with colleagues on a potential startup in the area, and I still consider starting a company in this or related area. This registration took place years before your client registered, and probably even thought about, the trademark.

Complainant's counsel did not see this response because his spam filter intercepted it.<sup>2</sup> Consequently, Complainant's counsel believed that Respondent had ignored Complainant's September 26, 2024, letter.

The Complaint was filed on June 7, 2025. On July 29, 2025, after the Complaint was filed, Complainant's representative and Respondent spoke on the telephone. Complainant's representative stated that Complainant filed the Complaint as a "last resort" because Respondent had not responded to Complainant's many messages over the years. Complainant explained that it was having "more and more trouble with confusion..." and "our coun[sel] advised us that the only way to really get in touch with somebody is to force the issue, which now has happened. So, I guess he was right."

## **5. Parties' Contentions**

### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

Complainant contends that the Disputed Domain Name is likely to be confused with its Mark and points to examples of published articles about data science that mistakenly cite to the Disputed Domain Name where the context indicates an intent to cite to Complainant's <drivendata.org> website.

Notably, Complainant contends that Respondent has no right or legitimate interest in the Disputed Domain Name because he has never associated it with an active website.

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<sup>2</sup> This was probably because Respondent sent the response from his personal email rather than his university email with which Complainant had corresponded many times.

Complainant also contends that Respondent registered the Disputed Domain Name in bad faith when he renewed it after receiving actual notice of Complainant's trademark rights. This section of the Complaint reads as follows:

"Although the disputed domain was originally registered in 2000, **the relevant date for bad faith analysis is the most recent renewal**. The Respondent's most recent renewal of the domain took place on January 2, 2025, which was:

- One year after the Complainant secured U.S. trademark registration of the Mark in January 2024 (**Annex 3**).
- Three months after the Respondent was informed of the trademark in the Complainant's formal demand letter of September 26, 2024 (**Annex 6**).
- More than a decade after the first time the Complainant contacted the Respondent to raise concerns over the disputed domain (**Annex 5**).

Given that the Respondent had prior knowledge of the Complainant's rights and still re-registered the domain, bad faith is clearly established. Specifically, the Respondent's actions satisfy multiple established grounds for bad faith".

Complainant then goes on to identify those "multiple established grounds of bad faith" as "passive holding without legitimate use constitutes bad faith", "repeated re-registration despite prior knowledge of the Complainant's rights", "the Respondent's pattern of conduct prevents Complainant from using its mark online" and "refusal to respond to repeated attempts by the Complainant to pursue a solution."

In its Supplement filing, Complainant did not offer any argument or authority to support its original contention that renewal of a domain name could be considered bad faith registration. Instead, Complainant claimed that Respondent had recently transferred the Disputed Domain Name. Complainant attaches Whois records from 2017 through 2022 as annexes to the Supplemental filing. Complainant observes that although these records identify "Registrant's Organization" as "DM," the current RDAP, which was attached to Respondent's response, does not list "Respondent's Organization" as a field, but instead follows the listing for "Registrant" with the field "Kind: individual". Based on these records, Complainant argues that "at some point after July 15, 2022, ownership of the Disputed Domain was transferred from the organization identified as 'DM' to Respondent individually. In accordance with Section 3.8.1 of [WIPO Overview 3.0](#), the date of such transfer of ownership is the measuring date for the determination of bad faith registration. [...]" Complainant further contends that, "[t]o the extent that Respondent disputes that such a transfer has occurred, in accordance with Section 3.9 of [WIPO Overview 3.0](#), it is "incumbent on the respondent to provide satisfactory evidence of an unbroken chain of registration ...".

## **B. Respondent**

Respondent contends that Complainant has not satisfied all three of the elements required under the Policy for a transfer of the Disputed Domain Name.

Respondent contends that he registered the Disputed Domain Name a decade before Complainant acquired any trademark rights in the Mark with the intention of using it in relation to a project that he was working on with some colleagues at that time. He has produced documentation to the Panel in support of that claim. He further contends that his renewal of the Disputed Domain Name does not constitute bad faith registration under the Policy.

Respondent denies ever transferring the Disputed Domain Name to another entity and insists that he has maintained continuous uninterrupted ownership of the Disputed Domain Name since 2000 and has done so with the intention of making use of it in the future.

## 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.

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. Accordingly, the Disputed Domain Name is identical 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 that Complainant has made out a prima facie case and shifted the burden of production to Respondent. However, Respondent has rebutted Complainant's prima facie showing.

There is nothing in the record that causes the Panel to doubt the accuracy of Respondent's statement in his Response to Complainant on September 30, 2024: "I have spent most of my research career working on statistical learning and data-driven algorithms. I registered the driven-data domain while working with colleagues on a potential startup in the area, and I still consider starting a company in this or related area. This registration took place years before your client registered, and probably even thought about, the trademark." It is a quasi-descriptive name consistent with his specialty and his stated plan for it.

The Panel finds the second element of the Policy has not been established. Complainant has failed to satisfy the Panel that Respondent does not have a right or legitimate interest in respect of the Disputed Domain Name.

### C. Registered and Used in Bad Faith

Respondent did not register the Disputed Domain Name in bad faith. He registered it nearly fourteen years before Complainant began using the <drivendata.org> and more than twenty years before Complainant filed an application in 2022 to register the Mark. "[w]here a respondent registers a domain name before the complainant's trademark rights accrue, panels will not normally find bad faith on the part of the respondent." [WIPO Overview 3.0](#), section 3.8.

The Panel is not persuaded by Complainant's contention that Respondent's several renewals of the Disputed Domain Name may be considered registrations for the purpose of evaluating bad faith. "[P]anels have found that the mere renewal of a domain name registration by the same registrant is insufficient to support a finding of registration in bad faith." [WIPO Overview 3.0](#), section 3.9.

The Panel also rejects Complainant's new argument (made for the first time in its Supplemental filing) that Respondent recently transferred the Disputed Domain Name. Complainant first raised the argument that Respondent transferred the Disputed Domain Name to "DM" in its Supplemental filing without any explanation for Complainant's failure to make the allegation in its Complaint. Complainant bases this argument on new evidence—the historical Whois records—that it could have attached to the original complaint. More fundamentally, Complainant made no effort in its Supplemental filing to defend its original contention that Respondent's recent renewals could be considered a registration of the Disputed Domain Name.

Regardless, the balance of evidence favors finding that Respondent maintained uninterrupted ownership of the Disputed Domain Name since it was registered in 2000. There is no evidence that Respondent ever transferred the Disputed Domain Name. Complainant argues in its Supplement that it is "incumbent on the respondent to provide satisfactory evidence of unbroken chain of registration..." quoting a portion<sup>3</sup> of [WIPO Overview 3.0](#), section 3.9. The Panel finds that the balance of evidence supports a finding that Respondent never transferred the Disputed Domain Name and that he has owned it without break since he registered it in 2000. This evidence weighs more than Complainant's speculation of a transfer based on the unexplained absence of a field for Registrant's Organization in the current RDAP report. The Panel notes that the Center's June 14, 2025, email notified Complainant that the Registrar disclosed Registrant's Organization as "DM." This disclosure clarifies any uncertainty caused by the failure of the RDAP record to list "Registrant's Organization" as a field for data. Whatever "DM" means, the Registrar's records consistently list "DM" as the Registrant's Organization from 2017 to the present and there is no basis for inferring a transfer. Moreover, Complainant's own behaviour shows that Complainant has always believed that Respondent continuously owned the Disputed Domain Name - seven email messages to Respondent seeking negotiations, counsel's letter to Respondent.<sup>4</sup> And there is no allegation of a transfer in the Complaint.

As to the evidence referred to in section 4 above, which Complainant has produced of confusion occurring between the Disputed Domain Name and its ".org" equivalent, Complainant's domain name, the Panel observes that this confusion was the inevitable result of Complainant having selected a substantially identical domain name with knowledge of the existence of the Disputed Domain Name. In other words, the confusion was of Complainant's making.

The Panel finds the third element of the Policy has not been established.

#### **D. Reverse Domain Name Hijacking**

The Panel finds that the Complaint has been brought in bad faith and constitutes an attempt at Reverse Domain Name Hijacking. Complainant had "clear knowledge of a lack of bad faith (see generally section 3.8) such as registration of the disputed domain name well before the complainant acquired trademark rights" [WIPO Overview 3.0](#), section 4.16(i). Complainant argues that Respondent's recent renewal of the Disputed Domain Name is evidence of bad faith registration. This contention unreasonably ignored established Policy precedent notably as captured in the [WIPO Overview 3.0](#), sections 3.8 and 3.9. See [WIPO Overview 3.0](#), section 4.16(iii). Complainant filed the Complaint "after an unsuccessful attempt to acquire the disputed domain name from the respondent without a plausible legal basis." [WIPO Overview 3.0](#) 4.16(vii).

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<sup>3</sup> Complainant's quotation omits the preceding phrase: "In cases where the domain name registration is masked by a privacy or proxy service and the complainant credibly alleges that a relevant change in registration has occurred..." [WIPO Overview 3.0](#), section 3.9. The Panel finds that Complainant has not "credibly allege[d]" that change of registration occurred.

<sup>4</sup>The Panel notes, in particular, that Complainant continued to address its email messages and attorney correspondence to Respondent even during the period when the Whois record identified "DM" as the registrant's organization.

In this case Respondent had to go back 25 years in search of documentation to support his defence, not only to retain ownership of the Disputed Domain Name, but also in defence of his reputation from the false allegations of bad faith. The quality of the Response demonstrates that Respondent devoted significant time to drafting it. He then spent USD 2,000 in fees for a three-member panel, no doubt to reduce the risk of an unfavourable decision from a single panel. Clearly, he is keen to retain ownership of the Disputed Domain Name, a quasi-descriptive name registered in good faith and apt for use in his specialist area of research.

Complainant also went back 25 years seeking support for its case. The Complaint cites five cases, all of which date back to the year 2000 (*Telstra Corporation Ltd. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), *Compagnie de Saint Gobain and Saint-Gobain Vitrages v. Com-Union Corp.*, WIPO Case No. [D2000-0020](#), *Jupiters Limited v. Aaron Hall*, WIPO Case No. [D2000-0574](#), *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#) and *Alitalia-Linee Aeree Italiane S.P.A.*, WIPO Case No. [D2000-1260](#)), thereby ignoring the jurisprudence built up over the ensuing quarter of a century. It was the citation of the first of those cases, *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), which prompted the Panel to state in the Procedural Order (see section 3 above) that “the Panel would be particularly interested in any evidence that Complainant has in support of its contention that Respondent’s passive holding of the domain name involved fraudulent conduct.” In the Complaint Complainant cited three of the five factors leading the panel in that case to come to its finding of bad faith passive holding. The two factors that Complainant omitted were “the Respondent has taken active steps to conceal its true identity, by operating under a name that is not a registered business name” and “the Respondent has actively provided, and failed to correct, false contact details, in breach of its registration agreement.” In its response to the Procedural Order Complainant failed to address the issue of fraudulent conduct highlighted in the Procedural Order. Complainant ignored this key factor because at the date of the Complaint Complainant knew not only the identity of the Respondent and how to contact him, but also that he was an academic doing research in the field. Ignoring these key factors -- ones that favor Respondent -- instead of fully addressing all the factors and acknowledging which way they each cut, further buttresses our conclusion that the proceeding was brought in bad faith.

The Panel further notes that if there were a provision in the Policy authorizing the award of costs to a prevailing Respondent, the Panel would be inclined to so order in this case, but there is no such provision in the Policy.<sup>5</sup> The Panel, however, invites Complainant to consider voluntarily paying those costs. This would be appropriate given the exceptional facts of this case.

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<sup>5</sup> The Panel does not intend to endorse or advocate the addition of such a provision to the Policy, which would present many difficult questions that the panel has not considered. See *Initial Report of The WIPO-ICA UDRP Review Project Team*, (April 17, 2025) (“[G]iven the complexities in administering such a [loser pays] system, we would recommend against the adoption of a loser pays system.”) last viewed October 31, 2025 at [chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.wipo.int/export/sites/www/amc/en/docs/wipoicareportapril2025.pdf](https://www.wipo.int/export/sites/www/amc/en/docs/wipoicareportapril2025.pdf)

## 7. Decision

For the foregoing reasons, the Complaint is denied.

*/Lawrence K. Nodine/*

**Lawrence K. Nodine**

Presiding Panelist

*/Michael A. Albert/*

**Michael A. Albert**

Panelist

*/Tony Willoughby/*

**Tony Willoughby**

Panelist

Date: October 29, 2025