

ADMINISTRATIVE PANEL DECISION

Victor Adam Bosak III v. Robert Rogers, R D Rogers LLC
Case No. D2025-4174

1. The Parties

Complainant is Victor Adam Bosak III, United States of America (“United States”), self-represented.

Respondent is Robert Rogers, R D Rogers LLC, United States, represented by John Berryhill, Ph.D., Esq., United States.

2. The Domain Name and Registrar

The disputed domain name <upscaleavenues.com> (the “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 October 12, 2025. On October 13, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 13, 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 October 15, 2025. In accordance with the Rules, paragraph 5, the due date for Response was November 8, 2025. The Response was filed with the Center on November 4, 2025. Complainant submitted unsolicited supplemental filings to the Center on October 19, 21, 23, 29, and November 1, 2025. As will be discussed below, Complainant sent an additional email to the Center on November 5, 2025 after the Response was filed.

The Center appointed Robert A. Badgley as the sole panelist in this matter on November 10, 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 and Respondent are both engaged in the real estate business in the Norfolk, Virginia area. They have had prior dealings over the years. There was evidently a falling-out, and now part of the Parties' dispute concerns the Domain Name. The Panel will strive to confine its account of the facts and the Parties' arguments to those facts and arguments directly germane to the disposition of this dispute regarding the Domain Name under the UDRP. As such, many extraneous facts, allegations, arguments, and potential legal claims and theories will be absent from this Decision.

According to the Complaint:

"The Complainant, Victor A. Bosak III, holds enforceable rights in the federally registered trademark UPSCALE AVENUES, which was registered with the United States Patent and Trademark Office on March 19, 2019 under Reg. No. 5,702,929. The rights were formally recognized and shared with the Respondent, Robert D. Rogers, via a notarized Trademark Co-Ownership Agreement and Assignment of Trademarks executed in May 2019." [...]

"In this agreement, the Respondent explicitly acknowledges that the Complainant originated the 'Upscale Avenues' brand in 2015, and that both parties share equal, undivided ownership of the trademark and all related trademark assets — including domain names, social media handles, logos, artwork, marketing content, and the goodwill associated with the mark. The agreement also prohibits either party from transferring or selling any of these assets without the other's prior written consent. Despite this, the Respondent took unauthorized, unilateral control of the trademark and its associated trade assets, and allowed the registration to lapse in 2025."

The May 2019 Trademark Co-Ownership Agreement also provides that Respondent had been using UPSCALE AVENUES as a trademark in connection with his real estate business since 2018. The trademark registration which is the subject of the May 2019 agreement was canceled on October 3, 2025.

Complainant also alleges:

"Complainant has filed a new USPTO application (Serial No. 99427901) to preserve and continue legitimate ownership and use of the trademark."

This new application was filed with the USPTO on October 4, 2025.

On April 8, 2018, Respondent registered the Domain Name. Also on that date, Respondent received from the Commonwealth of Virginia's State Corporation Commission a Certificate of Organization for the business named Upscale Avenues, LLC, with Respondent listed as the registered agent for the corporation.

Respondent later changed his company's name to Crescas Real Estate and Distinctly Real Estate. For a time, the Domain Name was redirected to Respondent's commercial website at "www.crescasrealestate.com" and then it was redirected to Respondent's commercial site at "www.distinctlyrealestate.com". The Domain Name has been parked at a website that contained hyperlinks related to real estate in the Commonwealth of Virginia and now is a Registrar landing page.

The Domain Name was listed for sale for USD 7,500 at the Registrar's site.

The Parties have issued cease-and-desist missives to each other at various times and for various reasons. In the Panel's view, none of these communications is relevant to the disposition of this UDRP case.

5. Parties' Contentions

A. Complainant

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

Complainant contends that it created the mark UPSCALE AVENUES in 2015, three years before Respondent registered the Domain Name and also began to use the mark. Complainant also asserts that its rights in that mark are confirmed by the May 2019 agreement between the Parties, discussed above. Complainant argues:

"The 2019 agreement between the parties (Annex A) further confirms that the Complainant's rights in the trademark predate the current misuse and that the domain is contractually bound to shared control. Although the domain was registered in 2018, that registration occurred during the parties' joint operation of the Upscale Avenues brand, which was originally created by the Complainant. The Respondent later abandoned the Upscale Avenues name, rebranded his business under different names, and allowed the shared trademark to lapse. As such, he forfeited any legitimate interest tied to the prior registration."

Complainant asserts further:

"The Respondent has used the disputed domain name solely to redirect traffic to unrelated brands and businesses that are neither named Upscale Avenues nor affiliated with it. This conduct is a textbook example of bad-faith diversion, designed to exploit residual brand goodwill built by the Complainant. Redirecting consumer traffic from a co-created brand to an unrelated enterprise, without the consent of the brand originator, does not constitute a legitimate interest under the Policy. Rather, it demonstrates deliberate misappropriation and consumer confusion."

Complainant also argues that the fact that the Domain Name was listed for sale for USD 7,500 is further evidence of bad faith on Respondent's part.

B. Respondent

Respondent summarizes the case as follows:

"This proceeding involves a novel and unique claim by the Complainant that a 50% ownership interest with the Respondent in a now-cancelled trademark registration entitles him to a domain name which the Respondent originally registered in his capacity as the sole founder, owner and principal officer of the Complainant's former employer, Upscale Avenues LLC. The Respondent has at all times remained the sole registrant and owner of the domain name, and has never assigned any interest in the domain name to the Complainant. The Respondent believes there is a reasonable likelihood that not much in the way of a Response is truly needed here, given the obvious problems with the basic premise of the Complaint. As the Complainant will no doubt continue to provide the Panel with abundant reading material, the Respondent will attempt to be brief. To save time, the Panel is invited to skip to its own conclusion on the basic UDRP scope issue admitted by the Respondent and his reliance on a prior contractual relationship between the parties as the basis of his claim of rights. As the 'out of scope' option is relatively low-hanging fruit here, the Respondent will address the substantive Policy elements below."

Respondent asserts further:

"As will likely come as no surprise, the Complainant's employment with Upscale Avenues LLC was terminated by the Respondent due to certain behavioral problems. The Complainant's behavior in this Proceeding demonstrates some of the issues which led to termination of the Complainant's employment. Accordingly, the Respondent does respectfully request the Panel to consider what is demonstrated by the Complainant's Supplemental filings dated October 28, 2025 and November 1, 2025. In particular, the Respondent would like to draw the Panel's attention to the various case citations the Respondent has made and relied upon in those filings."

Respondent then points to several cases cited by Complainant, none of which is an actual UDRP decision. Some of these citations reflect actual UDRP decisions, but the parties named in the case captions are entirely different from the real cases which correspond to the case numbers cited by Complainant. Respondent also points out a number of case citations (cited in the Complainant's supplemental filing) where the panel's actual holding in the case cited bears no relationship with the proposition for which Complainant has cited it in this case.

Respondent asserts further:

"The Complainant additionally cites a pending intent-to-use application which the Complainant filed several days before the Complaint. As is well established under the Policy, pending applications do not demonstrate ownership of rights. [WIPO Overview 3.0](#), §1.1.4 ("A pending trademark application would not by itself establish trademark rights within the meaning of UDRP paragraph 4(a)(i).") In one of the Complainant's supplements, the Complainant indeed correctly points out that common law rights may exist independently of a mere pending application. Unfortunately, the Complainant does not accompany this argument with any evidence of common law rights, and the pending application was filed on an 1(b), intent-to-use, basis, which is an admission that the Complainant is not using the mark."

One of Respondent's leading points is this:

"To any extent to which the Complainant might claim rights deriving from historical previous use of the mark under the [May 2019] co-ownership agreement, that argument is self-defeating since it equally confers the other 50% of those rights to the Respondent, relevant to the second UDRP criterion [the UDRP's 'rights or legitimate interests' element]. Accordingly, the Complainant has not shown rights in any relevant mark. The Complainant's claim to a 50% interest in historic use of the cancelled registered mark and any remaining goodwill therein, applies equally to the Respondent."

Finally, with respect to Complainant's assertion that Respondent abandoned any rights he may have had in the Domain Name by changing his business name from Upscale Avenues, LLC to other names, Respondent argues:

"It is, of course, obvious that any business which changes its name would be well-advised to keep its previous domain name registered and used as a re-direct to its current name. Like any other business asset, domain names may be kept, sold, or abandoned at will by their legitimate registrants. Over several years, the Respondent's Upscale Avenues LLC transacted business with many clients who may still seek to find the Respondent using that domain name, and of course, email addresses utilizing old company domain names still exist in the address books and auto-complete mechanisms of email systems. It would be foolhardy of any business not to maintain formerly-used domain names as re-directs to their updated company names, lest someone seek to damage the company's historical reputation or hi-jack email messages sent to the previous address."

6.1. Discussion and Findings – Procedural Issue

Following the filing of the Response on November 4, 2025, Complainant sent an email to the Center on November 5, 2025, stating:

"The Respondent's November 4 Response introduces multiple new factual assertions and arguments not reasonably anticipated by the Complainant, including (1) allegations regarding purported fabricated case citations, (2) claims of contractual "out-of-scope" defenses, and (3) new factual representations concerning the Respondent's continued control and use of the disputed domain name following dissolution of Upscale Avenues LLC. In accordance with Paragraph 12 of the Rules and Section 4.6 of the [WIPO Overview 3.0](#), the Complainant respectfully requests leave to file a short supplemental submission limited to addressing these new matters and providing relevant evidence to assist the Panel."

In its discretion, the Panel will not grant Complainant leave to submit anything further in this case. First, Complainant sent the Center, between the filing of its Complaint and the filing of the Response, no fewer than five separate unsolicited supplemental filings. Most of these were submitted expressly with a view toward anticipating points that Respondent would make in his Response (and which, for the most part, were

in fact correctly anticipated). As for the three purportedly “new” matters mentioned in Complainant’s November 5, 2025 email, item (2) was dealt with extensively by Complainant throughout its Complaint and various unsolicited submissions, and item (3) needs no further elucidation because, as will be seen below, the Panel ultimately will decide this case regardless of Respondent’s conduct vis-à-vis the Domain Name after the dissolution of Upscale Avenues, LLC.

As respects item (1), dealing with Complainant’s serial citation to nonexistent cases (or, in Complainant’s verbiage, “purported fabricated case citations”), the Panel does not need further input on this issue. It is manifest from the record that Complainant has cited to several alleged UDRP decisions that simply do not exist, and has cited to a few other UDRP decisions which do exist but do not stand for the propositions for which Complainant cites them. The Panel does not need an explanation of how these indisputably false case citations came to be. Moreover, Complainant is the one who offered these numerous fake case citations into the record in the first place. As such, Complainant should have anticipated that Respondent and his counsel would detect these fake case citations and point them out to the Panel, and hence Complainant’s present claim that this issue was not reasonably anticipated rings hollow.

6.2. Discussion and Findings – Merits of the Dispute

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel declines to decide whether Complainant owns rights in a trademark. The Panel need not address this issue because the Complaint fails on the “Bad Faith” element, discussed below.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel declines to decide this issue, given its ruling below on the “Bad Faith” element.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or

- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent did not register the Domain Name in bad faith. Having so concluded, and given the UDRP's conjunctive requirement of bad faith registration and use, the Panel need not discuss Respondent's use of the Domain Name.

When the myriad and repetitive arguments raised in the Complaint and in several unsolicited filings thereafter are all considered, a few inescapable and essential facts remain. One, Complainant registered the Domain Name on April 8, 2018, on the same day it had registered a Virginia limited liability corporation with the same name as the Domain Name. Two, the May 2019 Trademark Co-Ownership Agreement confirmed that Respondent had registered the trademark UPSCALE AVENUES and had been using that mark in connection with his real estate business since 2018. Though Complainant claims to have created that mark in 2015, Complainant also acknowledges in its Complaint that the registration of Domain Name occurred during the parties' joint operation discussions involving the UPSCALE AVENUES trademark, which is also supported by Complainant's decision to execute the May 2019 Trademark Co-Ownership Agreement, that states "Bosak [Complainant] acknowledges permission of use of the Trademark [UPSCALE AVENUES] was established with Upscale Avenues and its Principal Broker Rogers [Respondent] in 2018 (...)" and would seem to have nullified any objection Complainant may have had to Respondent's use of the UPSCALE AVENUES trademark beginning in 2018 and registration of the UPSCALE AVENUES mark on March 19, 2019.

Put another way, on the available record, the Panel cannot see how Respondent's registration of the Domain Name during parties' joint operation discussions involving the UPSCALE AVENUES trademark could have been done in bad faith. Because bad faith registration is not found here, the Complaint must fail. Whether the Parties may have other claims against each other under various legal theories that have been raised in this record is beyond the Panel's remit and beyond the scope of the UDRP.

D. Reverse Domain Name Hijacking

Respondent did not expressly request a finding of Reverse Domain Name Hijacking ("RDNH"). Nonetheless, the Panel here finds that Complainant has abused the UDRP process and has committed RDNH.

First, Complainant should have known that its case was exceedingly shaky, given the Parties' history and the May 2019 Trademark Co-Ownership Agreement, which expressly recognized that Respondent had rights in the trademark that corresponds exactly to this Domain Name. As Respondent pointed out, Complainant seems to have used the May 2019 agreement as a basis to establish its own rights in the trademark UPSCALE AVENUES, but failed to recognize that this same contract also confers equal rights in Respondent.

Second, Complainant's serial submission of unsolicited filings to the Center, including at least five submitted before the Response was even filed, is improper and borders on abusive. The Complainant controls the timing of when a UDRP case is initiated, and hence has ample time to work up the facts and marshal the arguments that the complainant believes will carry the day and secure the transfer of the domain name at issue. In such circumstances, there is no reason to submit, after the initial complaint, five separate filings to buttress the initial complaint. In the present case, Respondent ultimately retained counsel, but that counsel faced a deadline to respond to the Complaint and also to the volley of additional submissions – often quite redundant in substance – that continued to pour in. By itself, Complainant's conduct in this respect might fall short of a RDNH finding, since Complainant proceeded *pro se* rather than with counsel. But in combination with the other factors discussed in this section, the Panel finds it abusive.

Third, and remarkably, Complainant cited several nonexistent cases to the Panel in support of its case. Complainant also cited several actual cases that do not stand for the proposition for which they were cited. If there was one errant citation or something that could be chalked up to momentary carelessness, the Panel might be disposed to overlook the error. But the sheer quantity of fake case citations compels something more than a shrug. The Panel is mindful of some recent instances where lawyers have been caught citing fake cases to courts of law in the United States, and in these instances it has been claimed that Artificial Intelligence (“AI”) programs were used by the lawyers, and the work product thereby obtained was rife with so-called AI hallucinations. Perhaps that is what happened here. Assuming so would be the most charitable interpretation the Panel could place on Complainant’s submissions to the Panel. Even if this were the explanation, the Panel would still condemn the decision to submit what Complainant submitted without doing some measure of verification that the cases cited were actually genuine and stood for the propositions advanced by Complainant in aid of its case. The failure to perform such due diligence (which, again, is the most innocuous construction the Panel can assign to these circumstances), and the resulting suite of massive and misleading errors in the materials submitted here for consideration, cannot be countenanced.

In sum, in the circumstances of this case, the Panel finds that Complainant’s failure to appreciate how weak its case was, Complainant’s failure to abide by the rules of a UDRP proceeding by making new filings seemingly every time something new popped into Complainant’s head, and Complainant’s presentation of numerous false and misleading citations to nonexistent UDRP cases, add up to an abuse of process worthy of a determination that Complainant abused this process and committed Reverse Domain Name Hijacking.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: November 24, 2025