ADMINISTRATIVE PANEL DECISION

Brand Shared Services, LLC v. Carly Nardella, Carlyardella
Case No. D2026-3328

1. The Parties

The Complainant is Brand Shared Services, LLC, United States of America ("United States"), represented by MKM + PARTNER Rechtsanwälte PartmbB, Germany.

The Respondent is Carly Nardella, Carlyardella, United States.

2. The Domain Name and Registrar

The disputed domain name <brendsafway.com> (the "Disputed Domain Name") is registered with Amazon Registrar, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 28, 2026. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 29, 2026, 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 (On behalf of brendsafway.com OWNER, c/o whoisproxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 4, 2026, 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 August 18, 2026.

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 August 19, 2026. In accordance with the Rules, paragraph 5, the due date for Response was September 8, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 9, 2026.

The Center appointed Lynda M. Braun as the sole panelist in this matter on September 14, 2026. 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

Founded in 1919 and headquartered in Atlanta, Georgia, United States, the Complainant is a global company providing specialized access solutions, scaffolding, formwork, shoring, and industrial services for the industrial, commercial, and infrastructure sectors. The Complainant has over 40,000 employees across approximately 340 locations in 25 countries, serving more than 29,000 customers worldwide, with its revenues in 2023 exceeding USD five billion.

The Complainant owns the following registered trademarks, including, but not limited to: BRANDSAFWAY, United States Registration No. 5,807,427, registered on July 16, 2019; BRAND SAFWAY (stylized mark), United States Registration No. 5,814,076, registered on July 23, 2019; and BRANDSAFWAY, European Union Trademark No. 017627308, registered on December 20, 2018. The Complainant also owns an extensive portfolio of registered trademarks in various jurisdictions worldwide that incorporate “brand” and “safway” into the trademarks. All these trademarks are distinctive within the industry and serve to protect the Complainant’s business operations and reputation on a global scale. The foregoing registered trademarks will hereinafter collectively be referred to as the “BRANDSAFWAY Mark”.

The Disputed Domain Name was registered on June 4, 2026, and resolves to an inactive page. The available record does not indicate any other use to which the Disputed Domain Name has been put. Thus, the Respondent is passively holding 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 is confusingly similar to the BRANDSAFWAY Mark since the Disputed Domain Name is visually similar to the BRANDSAFWAY Mark, albeit a misspelling, using the letter “e” in place of the letter “a” in “brand”;

- the Respondent has no rights or legitimate interests in the Disputed Domain Name because, among other things, there is no evidence that the Respondent has ever used the Disputed Domain Name in connection with a bona fide offering of goods or services given that it is not in active use; and

- the Disputed Domain Name was registered and is being used in bad faith because, among other things, the Respondent engaged in typosquatting, which is prima facie evidence of bad faith, and the Respondent had actual knowledge of the Complainant and the BRANDSAFWAY Mark when it registered the Disputed Domain Name.

The Complainant seeks the transfer of the Disputed Domain Name from the Respondent to the Complainant in accordance with paragraph 4(i) of the Policy.

B. Respondent

The Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy requires that the Complainant prove the following three elements in order to prevail in this proceeding:

(i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(ii) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and

(iii) the Disputed Domain Name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a two-fold inquiry: a threshold investigation into whether a complainant has rights in a trademark, followed by an assessment of whether the disputed domain name is identical or confusingly similar to that trademark. The Panel concludes that in the present case, the Disputed Domain Name is confusingly similar to the BRANDSAFWAY Mark, differing only by the substitution of the mark by using the letter "e" in place of the letter "a" in "brand".

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 Select UDRP Questions ("WIPO Overview 3.1"), section 1.7.

It is uncontroverted that the Complainant has established rights in the BRANDSAFWAY Mark based on its registered trademarks for the BRANDSAFWAY Mark in the United States and trademark offices in other jurisdictions worldwide. The registration of a mark satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. As stated in section 1.2.1 of the WIPO Overview 3.1, "[w]here the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case". The Respondent has not rebutted this presumption, and therefore the Panel finds that the Complainant has rights in the BRANDSAFWAY Mark. Thus, the Panel finds that the Complainant satisfied the threshold requirement of having trademark rights in the BRANDSAFWAY Mark.

The Disputed Domain Name consists of the BRANDSAFWAY Mark in its entirety, albeit misspelled with the letter "e" used in place of the letter "a" in "brand" in the Disputed Domain Name. Such a variation of a complainant's trademark in a disputed domain name is commonly referred to as "typosquatting" and seeks to wrongfully take advantage of errors by a user in typing a domain name into a web browser. The misspelling of "brand" to "brend" does not prevent a finding of confusing similarity to the BRANDSAFWAY Mark. See WIPO Overview 3.1, section 1.9: "A domain name which consists of a variation of a trademark (typically a common, obvious, or intentional misspelling, referred to as typosquatting) is considered by panels to be confusingly similar to the relevant mark for purposes of the first element"; see also *Express Scripts, Inc. v. Whois Privacy Protection Service, Inc. / Domaindeals, Domain Administrator*, WIPO Case No. D2008-1302; and *Singapore Press Holdings Limited v. Leong Meng Yew*, WIPO Case No. D2009-1080.

Finally, a generic Top-Level Domain ("gTLD"), such as ".com" in a domain name is a technical requirement. Thus, it is well established that, as here, such element may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. D2012-0182, and WIPO Overview 3.1, section 1.11.1. Thus, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's BRANDSAFWAY Mark.

Based on the available record, the Panel finds that the first element of the Policy has been established.

B. Rights or Legitimate Interests

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving that 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 3.1, section 2.1.

In this case, given the facts as set out above, the Panel finds that the Complainant has made out a prima facie case that the Respondent lacks rights or legitimate interests. The Respondent has not submitted any arguments or evidence to rebut the Complainant's prima facie case. Furthermore, the available record does not show that the Complainant has ever authorized, licensed, or otherwise permitted the Respondent to use its BRANDSAFWAY Mark. Nor does it seem that the Complainant has any type of business relationship with the Respondent. There is also no evidence that the Respondent is commonly known by the Disputed Domain Name or by any similar name, nor any evidence that the Respondent is using or making demonstrable preparations to use the Disputed Domain Name in connection with a bona fide offering of goods or services. See Policy, paragraph 4(c). Moreover, based on the circumstances of the case and the use made of the Disputed Domain Name to resolve to an inactive page, the Panel finds that the Respondent is not making a bona fide offering of goods or services nor making a legitimate noncommercial or fair use of the Disputed Domain Name.

Finally, the Panel concludes that engaging in typosquatting, as the Panel finds has found to have occurred here, undermines a claim of rights or legitimate interests.

Based on the available record, the Panel finds that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel finds that based on the record, the Complainant has demonstrated the Respondent's bad faith in the registration and use of the Disputed Domain Name pursuant to paragraph 4(a)(iii) of the Policy.

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 3.1, section 3.2.1.

First, the Panel finds that the renown of the BRANDSAFWAY Mark in its industry, which was used and registered by the Complainant in advance of the Respondent's registration of the Disputed Domain Name, renders it wholly implausible that the Respondent created the Disputed Domain Name independently. Therefore, the Panel finds it likely that the Respondent had the Complainant's BRANDSAFWAY Mark in mind when registering the Disputed Domain Name, especially since the mark is a coined term, recognizable in the Disputed Domain Name despite its misspelling, demonstrating bad faith. Therefore, based on the use of the BRANDSAFWAY Mark worldwide, it strains credulity to believe that the Respondent had not known of the Complainant or its trademark when registering the Disputed Domain Name. In sum, UDRP panels have found that the registration of a disputed domain name that is confusingly similar to a well-known trademark (particularly domain names comprising typos) by an unaffiliated entity can create a presumption of bad faith. See WIPO Overview 3.1, section 3.1.4.

Further, the Disputed Domain Name resolves to an inactive page, which does not prevent a finding of the Respondent's bad faith under the circumstances of the case. Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. WIPO Overview 3.1, section 3.3. See also *Brand Shared Services LLC v. Jesse Conwell*, WIPO Case No. D2025-4486 (passive holding of a domain name, in combination with factors such as domain name composition and reputation of the mark, does not prevent a finding of registration and use in bad faith under the UDRP); and *Brand Shared Services, LLC v. marilyn yonan*, WIPO Case No. D2026-0040.

Based on the available record, the Panel finds that the third element of the Policy has been established.

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 <brendsafway.com> be transferred to the Complainant.

/Lynda M. Braun /
Lynda M. Braun
Sole Panelist
Date: September 23, 2026