ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION
Dental Choice Holdings LLC v. Itallo Matteo, MB
Case No. D2026-4206

1. The Parties

The Complainant is Dental Choice Holdings LLC, United States of America ("United States"), represented by Dinsmore & Shohl LLP, United States.

The Respondent is Itallo Matteo, MB, Brazil.

2. The Domain Name and Registrar

The disputed domain name <usairwaav.com> 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 September 17, 2026. On September 21, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 23, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on September 23, 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 amendment to the Complaint on September 23, 2026.

The Center verified that the Complaint together with the amendment to 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 the Respondent of the Complaint, and the proceedings commenced on September 25, 2026. In accordance with the Rules, paragraph 5, the due date for Response was October 15, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 19, 2026.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on October 23, 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

The Complainant, a company based in Kentucky, United States, is a designer, developer and manufacturer of mouthpieces for sports and athletic uses, designed and engineered to allow for increased respiratory airflow. The Complainant has sold its products under the trademark AIRWAAV since 2020.

The Complainant owns the following trademark registrations, among others:

- United States trademark registration no. 6612061 for AIRWAAV, registered on January 11, 2022 in class 28;
- United States trademark registration no. 6719716 for AIRWAAV & design, registered on May 3, 2022 in class 28.

The Complainant operates an official website under the domain name <airwaav.com>.

The disputed domain name was registered on June 29, 2026.

At the time of filing of the Complaint, the disputed domain name resolved to a website mimicking the Complainant's website and purporting to sell the Complainant's products. The Complainant's logo was prominently displayed at the top of each page. The website also featured images of the Complainant's products, as well as texts, testimonials and photographs of athletes or researchers identical to those present on the Complainant's website.

The Complainant reports that on September 15, 2026, it received an email complaint from a customer who purchased a product through the website connected to the disputed domain name. This customer contacted the Complainant because the product received was not the AIRWAAV-branded product advertised on the Respondent's website. The customer sought to purchase the AIRWAAV Optimal Sleeping Kit, listed at USD 75.99, but instead received a package of "Dental Guards," which, according to the Complainant's research, resembles a much cheaper product sold on a third party marketplace..

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 highly similar to the Complainant's trademark, as it differs from it only in that it combines the Complainant's AIRWAAV trademark with the geographic term "us". According to the Complainant, such geographic term "us" would likely be interpreted by consumers as indicating the Complainant's United States website.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant asserts that the Respondent is not commonly known by the domain name or any portion thereof, nor is there any indication that the Respondent registered a trademark corresponding to the disputed domain name. Also, the Complainant contends that it has never assigned, sold or transferred any rights in its AIRWAAV trademark to the Respondent or granted the Respondent permission to use its trademark in the disputed domain name. Moreover, the Complainant has ample reason to believe that the Respondent—despite the products advertised on the site—is not selling genuine AIRWAAV products through the site. The Complainant has received at least one email complaint from a customer who purchased a product through the website to which the disputed domain name resolved, then contacted the Complainant because the product received was not the product advertised on and purchased through the site. The Complainant points out that filling an order with a completely different product hardly can constitute a bona fide offering of goods.

Finally, the Complainant contends that the disputed domain name has been registered and used in bad faith. Given the Complainant's prior use of the AIRWAAV trademark, it is unlikely that the Respondent would not have known of the Complainant's trademark at the time it acquired the disputed domain name. In the Complainant's view, the entire purpose of the website associated with the disputed domain name is to trade off the Complainant's trademark. Furthermore, the disputed domain name is used in bad faith: the Respondent is plainly attempting to create confusion with the Complainant's trademark or otherwise trade off the trademark and the Complainant's reputation for personal gain. The use of the AIRWAAV mark as part of the disputed domain name is clearly calculated to draw in Internet users searching for the Complainant's mark or products. Use of a domain name to divert Internet traffic to the registrant's own site for profit or other commercial benefit is a prime example of bad faith.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

(i) the domain name registered by the respondent 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 domain name; and

(iii) the domain name registered by the respondent has been registered and is being used in bad faith.

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

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. WIPO Overview 3.1, section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. WIPO Overview 3.1, section 1.7.

Although the addition of other terms (here, "us") may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. WIPO Overview 3.1, section 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 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.

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.

On the contrary, the record shows that the disputed domain name resolved to a website displaying the Complainant's trademark and impersonating the Complainant by means of a copycat website. Furthermore, while the Respondent's website purportedly offers for sale genuine goods of the Complainant, there is serious doubt that the Respondent is actually selling such goods, in view of the customer complaint received by the Complainant following the delivery of a cheaper product of another brand which did not correspond to the customer's order. Against such background, it is highly unlikely that the Respondent could avail itself of the "Oki Data" doctrine. According to this doctrine, resellers of genuine trademarked goods may under certain conditions have a legitimate interest in reproducing the goods' trademark in a domain name, the three first conditions being the actual sale of genuine goods of the mark at issue, the absence of sale of goods of other marks, and a prominent and accurate disclosure on the website on the nature of the relationship with the trademark holder (see *Oki Data Americas Inc. v. ASD, Inc.*, WIPO Case No. D2001-0903 and section 2.8 of the WIPO Overview 3.1). These conditions are clearly not met here.

Furthermore, the composition of the disputed domain name, combining the Complainant's trademark with a geographic term, is particularly apt to suggest sponsorship or endorsement. WIPO Overview 3.1, section 2.5.1.

Panels have held that the use of a domain name for illegitimate or illicit activity (here, copycat site and passing off) can never confer rights or legitimate interests on a respondent. WIPO Overview 3.1, section 2.13.1.

Finally, the Respondent did not file a Response to the Complaint. The Panel may draw from the lack of a Response the inferences that it considers appropriate, according to the Rules, paragraph 14(b).

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, given that the trademark of the Complainant is distinctive and has been used in the United States for several years before the registration of the disputed domain name, and given also that the disputed domain name contains the geographic term "us" referring to the United States, the Panel accepts that the Respondent was more likely than not aware of the existence of the Complainant and of its AIRWAAV trademark at the time of the registration of the disputed domain name. Therefore, the Panel holds that the disputed domain name was registered in bad faith.

The Respondent has used the disputed domain name in connection with a website impersonating the Complainant and mimicking its website. Such use is apt to create the false impression that the website is operated or endorsed by the Complainant, thus misleading, for commercial gain, consumers looking for the Complainant's website. Furthermore, the Respondent appears to have delivered on one occasion at least a cheaper product of another brand in response to an order placed on its website for a product of the Complainant's brand. The Panel finds it therefore likely that the Respondent intentionally attempted to

create a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website, for commercial gain. This is a circumstance of use of a domain name in bad faith according to paragraph 4(b)(iv) of the Policy.

Panels have held that the use of a domain name for illegitimate or illicit activity (here, claimed copycat site and passing off) constitutes bad faith. WIPO Overview 3.1, 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 <usairwaav.com> be transferred to the Complainant.

/Anne-Virginie La Spada/
Anne-Virginie La Spada
Sole Panelist
Date: November 8, 2026