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10  
11 **UNITED STATES DISTRICT COURT**  
12 **FOR THE DISTRICT OF NEVADA**

13 PROTON ASSOCIATES LLC, and  
14 SETH MILLER,

15 Plaintiffs,

16 vs.

17 AVELO, INC.,

18 Defendant.  
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Case No.:

**COMPLAINT**

BRAVO SCHRAGER<sup>LLP</sup>

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**Preliminary Statement**

1  
2 1. Defendant Avelo Airlines Incorporated is an airline that primarily  
3 operates low-cost passenger service between small regional airports. In April of this  
4 year, Avelo signed a contract with the United States Immigration and Customs  
5 Enforcement Agency (ICE) to “support the Department’s deportation efforts.” Avelo  
6 provides this support by flying migrants out of the country from a base in Mesa,  
7 Arizona.

8 2. Avelo’s decision to support the government’s deportation efforts  
9 caused many people across the country to protest the airline. The New Haven  
10 Immigrants Coalition circulated an online petition calling for a boycott. Protesters  
11 picketed in front of airports in Connecticut, Delaware, California, and Florida. The  
12 union representing Avelo’s flight attendants issued a statement. And the governors  
13 of Connecticut and Delaware denounced Avelo.

14 3. Plaintiff Seth Miller joined this effort by starting a campaign called  
15 the AvGeek Action Alliance, which urges travelers to choose airlines consistent with  
16 their political values. As part of this campaign, Miller leased two billboards on the  
17 road to Avelo’s hub in New Haven reading “Does your vacation support their  
18 deportation? Just say AvelNO! Paid for by AvGeek Action Alliance – avelNO.com.”  
19 The word “AvelNO” in the ad is a parody of Avelo’s blue-text trademark, with the “N”  
20 inserted between the “L” and the “O” in red. Miller’s purpose in buying the billboard  
21 was, unsurprisingly, not to identify airline tickets for sale, but rather to criticize  
22 Avelo.

23 4. In response, Avelo did not start its own advertising campaign,  
24 explain why Miller is wrong to the public, change its business, or do any of the  
25 innumerable other things it could do to contest speech it does not like. Instead, Avelo  
26 sent Miller a letter threatening to sue him for copyright, trademark, and trade-dress  
27 infringement if he did not provide “signed, written assurances” that he would stop  
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1 voicing his own speech by 5pm on Friday, May 16. The letter warned Miller that he  
2 may personally face “statutory damages of up to \$150,000 per infringement”  
3 alongside “attorney’s fees and costs.” Avelo then sent a letter to the company from  
4 which Miller is leasing the billboards threatening *them* with liability and causing  
5 them to take the billboards down.

6 5. Miller brings this Action seeking a declaratory judgment that his  
7 campaign does not infringe Avelo’s trademarks, trade dress, or copyright, which it  
8 does not for at least three reasons. First, Miller’s speech cannot possibly infringe  
9 Avelo’s marks because it is entitled to protection under the *Rogers* First Amendment  
10 test—Miller’s speech does not function as a trademark, it clearly mocks Avelo’s  
11 trademark, and it is therefore paradigmatic protected speech. Second, Miller’s speech  
12 was not “in connection with” the sale of goods or services as required by the trademark  
13 laws under clear Ninth Circuit precedent. And, finally, Miller’s speech was a textbook  
14 example of nominative fair use (for both trademark and copyright purposes) and  
15 could not possibly have confused any reasonable person about the source of airline  
16 passenger service. Miller also seeks relief from Avelo’s tortious interference with his  
17 billboard contract.

18 6. Avelo is free to disagree with Miller, to criticize him, and to advocate  
19 its position to the public. It is free to call Miller a naif, a fool, or worse. But it is not  
20 free to use baseless threats of litigation to suppress Miller’s criticism. This Court  
21 should declare that Miller does not violate Avelo’s copyright, trademark, and trade  
22 dress, and allow the public to continue seeing Miller’s free speech.

### 23 Parties

24 7. Plaintiff Proton Associates LLC is a limited-liability company formed  
25 under the laws of New Hampshire and headquartered in Dover, New Hampshire. It  
26 does business as AvGeek Action Alliance. Plaintiff Seth Miller formed and partly  
27 owns Proton. He is a resident of Dover, New Hampshire. (This Complaint collectively  
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1 refers to Plaintiffs as “Miller.”)

2 8. Defendant Avelo Incorporated is a corporation formed under the laws  
3 of Nevada and headquartered in Houston, Texas.

4 **Jurisdiction and Venue**

5 9. This Court has subject-matter jurisdiction over the federal claims in  
6 this action pursuant to 28 U.S.C. § 1331 and § 1338 because they arise under the  
7 Lanham Act and the Copyright Act.

8 10. This Court may exercise supplemental subject-matter jurisdiction  
9 over the state claims in this action pursuant to 28 U.S.C. § 1367, and also has subject  
10 matter jurisdiction over the state claims in this action pursuant to 28 U.S.C. § 1332  
11 because neither Miller nor any other member of Proton Associates LLC is a citizen of  
12 Nevada or Texas.

13 11. This Court may exercise general personal jurisdiction over Avelo  
14 because Nevada is its state of incorporation.

15 12. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) because  
16 this is a judicial district in which Avelo “resides” as defined by 28 U.S.C. § 1391(c)(2).

17 13. This Court may enter a declaratory judgment under 28 U.S.C. § 2201  
18 because Avelo’s letter created an actual controversy by putting Miller in a reasonable  
19 apprehension of being sued for trademark and copyright infringement.

20 **Avelo’s Business and The Protests it Occasioned**

21 14. Avelo is the successor to Casino Express Airlines and Xtra Airways,  
22 carriers that had operated charter flights since the 1980’s. Avelo rebranded and  
23 began operating scheduled commercial service in 2021. Later that year, Avelo  
24 announced that it would begin commercial service from Tweed New Haven Airport,  
25 which then did not have any commercial service. Since 2021, Tweed has become  
26 Avelo’s largest base.



1 “AvGeek” as shorthand for “Aviation Geek”) and set out to raise money to support the  
2 purchase of a billboard criticizing Avelo.

3 22. Miller began by creating avelNO.com. A permanent link to the site  
4 as it appeared on May 14, 2025, is available at <https://perma.cc/R2XY-Q9LP>.

5 23. AvelNO.com could not possibly, by any stretch of the imagination, be  
6 confused for a website created by Avelo. For starters, it currently begins—right at the  
7 top of the page—with the phrase “avelNO.com is not associated with Avelo the  
8 airline.” It then helpfully directs would-be Avelo customers to avelo.com in case they  
9 stumbled upon avelno.com by accident and are looking for plane tickets. The site goes  
10 on to clearly criticize Avelo, explaining its April 2025 contract with ICE and saying  
11 that “Picking a business that puts profits ahead of humanity is a bad choice.” “That’s  
12 why,” the site continues, “we’re asking you to just say ‘avelNO!’ and not fly with Avelo  
13 until it stops operating charters for ICE.”

14 24. Miller quickly raised enough money to rent out two billboards on the  
15 way to Tweed Airport.

16 25. On April 25, 2025, Miller entered a contract with Lamar Advertising  
17 Corporation to lease three billboards, one from May 5 to May 25, one from May 5 to  
18 June 1, and one from June 2 to June 15.

19 26. The first two billboards went up on May 5, 2025.

20 27. Exhibits A and B are true and correct images of the billboards.

21 28. As with Miller’s website, no reasonable person could confuse this  
22 billboard for an Avelo advertisement. It prominently declares that it is paid for by  
23 AvGeek Aviation Alliance, and it prominently criticizes Avelo. The billboard is  
24 obviously a parody.

### 25 **Avelo’s Litigation Threat**

26 29. On May 12, 2025, Miller received a FedEx package at his home in  
27 Dover. The package was from Drew Smith, *esq.*, a lawyer at a firm called Resonate  
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1 IP in Bend, Oregon.

2 30. In the package was a letter, which Miller also received by email. The  
3 letter is attached as Exhibit C.

4 31. In the letter, Smith contends that “the blatant use of our client’s  
5 trademarks and trade dress with ‘*The avelNo! campaign,*’ and associated websites,  
6 billboards, and marketing material, constitutes deliberate and willful trademark  
7 infringement and unfair competition.” Specifically, Smith contends that because  
8 “AvGeek’s websites actively solicit contributions” and because “the billboard display  
9 . . . is a deliberate attempt to interfere with Avelo’s air transportation services” that  
10 means that “the unauthorized use of our client’s trademarks constitutes commercial  
11 speech in commerce and falls within the jurisdictional purview of the Lanham Act.”  
12 Smith further contends that “[t]he mutilation of our client’s well-known house mark  
13 AVELO also constitutes dilution by tarnishment under the Federal Trademark  
14 Dilution Act, 15 U.S.C. § 1125(c).” Smith reports, without citing any specific example,  
15 that “We have already been notified of instances of actual confusion wherein  
16 consumers have mistakenly believed that the billboard is sponsored or affiliated with  
17 Avelo, demonstrating that confusion is not only likely but inevitable.”

18 32. Smith then demands that Miller “*immediately* cease,” and provide  
19 “signed written assurances” that it will not resume, “all use of the AVELO marks,  
20 logos, designs, and trade dress” and that it “remove all copyrighted pictures of Avelo  
21 aircraft . . . .” (Emphasis in original.) Smith threatens Miller with personal liability  
22 for three times the amount of money he raised on the website, statutory damages of  
23 \$150,000 per alleged infringement, and attorneys’ fees and costs. “To avoid any  
24 escalation of this matter,” Smith writes, “we ask that you provide your written  
25 response to this letter *no later than 5:00 pm on Friday, May 16, 2025.*” (Emphasis in  
26 original.)

27 33. Smith’s litigation threat is extraordinary. He cites only three cases  
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1 in support of his positions, all of which are more than 25 years old and one of which  
2 has been negatively cited by controlling cases. He cites a rationale for applying the  
3 Lanham Act to campaigns like Miller’s that governing precedent explicitly rejects.  
4 *Compare* Ex. A at 3 (arguing that Miller’s parody of Avelo’s mark is “in connection  
5 with” the sale of goods or services because it is “a deliberate attempt to interfere with  
6 Avelo’s air transportation services” (citing *Planned Parenthood Fed. of Am., Inc. v.*  
7 *Bucci*, 1997 WL 1333133 (S.D.N.Y. 1997)), *with* *Bosley Med. Inst., Inc. v. Kremer*, 403  
8 F.3d 672, 679 (9th Cir. 2005) (“To the extent that [courts have] held that the Lanham  
9 Act’s commercial use requirement is satisfied because the defendant’s use of the  
10 plaintiff’s mark . . . may deter customers from reaching the plaintiff’s [goods or  
11 services], we respectfully disagree with that rationale, . . . [which would] would  
12 encompass almost all uses of a registered trademark, even when the mark is merely  
13 being used to identify the object of consumer criticism.”). He wrongly cites the “use in  
14 commerce” clause when the question he references is in fact governed by the “use in  
15 connection with the sale of goods” clause of the Lanham Act. *Id* at 677. And he cites  
16 the Trademark Dilution Act without mentioning that the act *explicitly exempts*  
17 *parodies* where they are not used to identify the defendant’s goods, as explained in a  
18 Supreme Court case only two years ago. *See Jack Daniel’s Properties, Inc. v. VIP*  
19 *Products LLC*, 599 U.S. 140, 162 (2023) (“As described earlier, the ‘fair use’ exclusion  
20 [from the Trademark Dilution Act] specifically covers uses ‘parodying, criticizing, or  
21 commenting upon’ a famous mark owner.”).

22         34.         Perhaps most extraordinary, the letter threatens statutory damages  
23 for copying a “photograph” of Avelo’s “tail.” But Avelo does not own the copyright in  
24 that photograph—it was taken by a third party and Miller is authorized to use it.  
25 Even if Avelo meant to allege that the tail *design* is copyrighted, statutory damages  
26 for copyright violations are available only when the copyright has been previously  
27 registered. 17 U.S.C. § 412. After a diligent search, Miller’s counsel can find no  
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1 evidence that Avelo ever registered a copyright in that design, and, based on a recent  
2 case regarding registration of airline tail designs, it appears unlikely that Avelo could  
3 register its design, which is little more than a few colored, curved lines. The threat of  
4 \$150,000 statutory damages is, therefore, objectively baseless.

5 35. The letter was addressed to Miller at a time when he did not have  
6 counsel, and it threatens him with devastating personal liability.

7 36. Resonate IP, according to its website, “is a full-service intellectual  
8 property firm specializing in all aspects of trademarks and brand protection.” Smith  
9 reports that he is an active member of the International Trademark Association and  
10 that he is experienced in trademark litigation.

11 37. Avelo subjectively knew that its litigation threats were baseless.

12 38. Smith’s letter is an attempt to use meritless legal contentions to  
13 silence criticism of Avelo during a period of intense political dispute over its actions.

14 39. Miller does not want to cease his constitutionally protected speech.

15 **Avelo Threatens The Company Leasing Miller The Billboards**

16 40. On May 14, 2025, Miller received a call from Lamar, the company  
17 from which he had leased the billboards.

18 41. According to Lamar, Avelo sent Lamar a letter on May 9. That letter  
19 is attached as Exhibit D.

20 42. Avelo’s letter to Lamar makes the same objectively baseless threats  
21 that Avelo’s letter to Miller makes.

22 43. Avelo’s letter is also signed by Smith and on Resonate IP letterhead.

23 44. On information and belief, Avelo, as advised by Smith, knows that  
24 its litigation threats to Lamar are baseless.

25 45. On information and belief, Avelo sent its May 9 letter to Lamar  
26 because it believed that Lamar would take down the billboards merely to avoid the  
27 process of litigation.

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1 46. On May 15, Miller spoke with a Lamar representative. She told  
2 Miller that because of Avelo’s letter, Lamar had taken down Miller’s billboards.

3 47. She further told Miller that if Avelo had not sent a letter to Lamar,  
4 Lamar would not have taken down Miller’s billboards.

5 48. As of this filing, Miller’s billboards are not displayed.

6 **Claims for Relief**

7 ***Count One: Declaratory Judgment That Miller’s Speech Does Not Infringe***  
8 ***Avelo’s Copyrights. 17 U.S.C. § 501, et seq.***

9 49. Miller incorporates all prior paragraphs by reference.

10 50. On May 9, 2025, Avelo threatened to sue Miller for copying a  
11 “copyrighted picture[] of Avelo aircraft.”

12 51. Avelo does not own the copyright in that image and so Miller cannot  
13 possibly infringe Avelo’s copyright. The photograph was taken by a third party and  
14 Miller has secured the necessary rights for public display of the image.

15 52. In addition, or in the alternative, Miller’s use of the image constitutes  
16 fair use because it criticizes and parodies the original work.

17 53. In addition, regardless of any potential infringement, statutory  
18 damages are unavailable because Avelo has not registered any relevant copyright.

19 54. A declaratory judgment is proper under 28 U.S.C. § 2201 because  
20 Avelo’s letter and Miller’s intent to continue his speech create an actual controversy  
21 and this Court may “declare the rights” of Miller to continue that speech without  
22 liability.

23 ***Count Two: Declaratory Judgment That Miller’s Speech Does Not Infringe***  
24 ***Avelo’s Trademarks Under 15 U.S.C. § 1114***

25 55. Miller incorporates all prior paragraphs by reference.

26 56. Miller’s website and billboard did not constitute a designation of  
27 source or identification of any of Miller’s goods or services. To state a claim for  
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1 trademark infringement sufficient to defeat Miller’s First Amendment rights, then,  
2 Avelo would have to show that Miller’s challenged use of Avelo’s mark has no  
3 relevance to Miller’s protest or that it explicitly misleads as to the source or content  
4 of Miller’s protest. Miller’s speech does not do these things, and so is protected by the  
5 First Amendment.

6 57. Miller’s website and billboard were not commercial because their  
7 purpose was not to sell a competing product or service but rather to criticize Avelo.

8 58. Miller’s website and billboard could not cause a likelihood of  
9 confusion because they are unquestionably parodies on their face and they explicitly  
10 and prominently disclaim any association with Avelo.

11 59. In the alternative or additionally, Miller’s website and billboard  
12 constitute a nominative fair use of Avelo’s mark because they criticize, parody, and  
13 comment on Avelo’s business.

14 60. A declaratory judgment is proper under 28 U.S.C. § 2201 because  
15 Avelo’s letter and Miller’s intent to continue his speech create an actual controversy  
16 and this Court may “declare the rights” of Miller to continue that speech without  
17 liability.

18 ***Count Three: Declaratory Judgment That Miller’s Speech Does Not Infringe***  
19 ***Avelo’s Trade Dress Through Dilution Under 15 U.S.C. § 1125(c)***

20 61. Miller incorporates all prior paragraphs by reference.

21 62. Miller’s website and billboard did not constitute a designation of  
22 source or identification of any of Miller’s goods or services.

23 63. Miller’s website and billboard “identify[], parody[], criticiz[e], or  
24 comment[] upon” Avelo.

25 64. Miller’s website and billboard therefore cannot constitute dilution  
26 through tarnishment under 15 U.S.C. § 1125(c).

27 65. A declaratory judgment is proper under 28 U.S.C. § 2201 because  
28

1 Avelo’s letter and Miller’s intent to continue his speech create an actual controversy  
2 and this Court may “declare the rights” of Miller to continue that speech without  
3 liability.

4 ***Count Four: Tortious Interference With Business Expectancy***

5 66. Miller incorporates all prior paragraphs by reference here.

6 67. Miller has a business relationship with Lamar, specifically an  
7 ongoing contract to display Miller’s speech on Lamar’s billboard spaces.

8 68. Avelo, as proven by its letter, knew of Miller’s relationship with  
9 Lamar.

10 69. Avelo sent its May 9 letter to Lamar for the purpose of inducing  
11 Lamar to terminate its relationship with Miller, specifically to get Lamar to take  
12 down Miller’s billboards.

13 70. Avelo sent its May 9 letter to Miller for the purpose of inducing Miller  
14 to take the billboard down.

15 71. The May 9 letters to Lamar and to Miller threatened objectively  
16 baseless litigation. Miller’s billboards do not, as explained above, infringe Avelo’s  
17 trademark, trade dress, or copyright because (among other reasons) they are  
18 obviously parodies.

19 72. Avelo sent its May 9 letters to Lamar and to Miller subjectively  
20 knowing that its litigation threats were baseless. Instead, Avelo sent the letter  
21 because it correctly believed that Lamar would wish to avoid the burdens of litigation  
22 with Avelo and would take down Miller’s billboards for that reason.

23 73. Avelo therefore sent its May 9 letter maliciously and improperly.

24 74. As a result of Avelo’s letter, Lamar took down Miller’s billboards,  
25 depriving him of the benefit of his relationship with Lamar and harming him.

26 75. Avelo’s actions therefore constitute tortious interference with  
27 economic expectancy under Connecticut law.

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**Prayer for Relief**

1  
2 Plaintiffs Proton Associates LLC and Seth Miller respectfully request:

3 A. A declaratory judgment that neither Proton Associates LLC nor Seth  
4 Miller is liable to Defendant Avelo Incorporated for copyright infringement.

5 B. A declaratory judgment that neither Proton Associates LLC nor Seth  
6 Miller is liable to Defendant Avelo Incorporated for trademark infringement.

7 C. A declaratory judgment that neither Proton Associates LLC nor Seth  
8 Miller is liable to Defendant Avelo Incorporated for trade dress infringement.

9 D. An injunction forbidding Avelo from further tortiously interfering with  
10 Proton Associates LLC's economic relationship with Lamar Advertising Corporation  
11 by threatening Lamar with litigation regarding the content of Miller's billboards.

12 E. A judgment awarding damages against Avelo for tortiously interfering  
13 with Proton Associates LLC's economic relationship with Lamar Advertising  
14 Corporation.

15 F. An award of attorneys' fees and costs under 15 U.S.C. § 1117(a), Fed. R.  
16 Civ. P. 54, or any other applicable provision.

17 G. Any other relief deemed just and proper.

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**Jury Trial Demanded**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs demand a trial by jury on all issues so triable.

DATED this 16th day of May, 2025.

**BRAVO SCHRAGER LLP**

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# EXHIBIT A

## IMAGE OF THE BILLBOARD

# EXHIBIT A



# EXHIBIT B

## IMAGE OF THE BILLBOARD

# EXHIBIT B



**Does your vacation support  
their deportation?**

**Just say *ave!no!***

**Paid for by AvGeek Action Alliance – [ave!NO.com](http://ave!NO.com)**

# EXHIBIT C

## LETTER TO SETH MILLER

# EXHIBIT C



Drew M. Smith, Esq.  
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www.resonateip.com  
541.240.8020

May 9, 2025

***Via E-Mail & FedEx Delivery***

Seth Miller – *miller@protonassociates.com*  
Proton Associates, LLC dba AvGeek Action Alliance  
129 Fourth St.  
Dover, New Hampshire 03820

**Re: Unauthorized Use of Avelo, Inc. Trademarks**

Dear Mr. Miller,

This firm represents Avelo, Inc. (“Avelo”) in connection with trademark matters. More information about our client and its airline services can be found on its website, [www.aveloair.com](http://www.aveloair.com).

Since as early as April 2021, Avelo has used the designations AVELO and AVELO AIRLINES (collectively the “AVELO Marks”) as a house and trademark for airline transportation services in the United States, and in other countries. Avelo’s violet and secondary colors (teal, yellow, white), and livery design featuring the same, are unique to the industry and constitute inherently distinct trade dress.

Our client has spent significant resources developing and promoting its AVELO Marks and trade dress to distinguish its transportation services in the United States and abroad and has been widely featured in national publications such as The New York Times, The Wall Street Journal, Washington Post, as well as in countless travel blogs and websites.

As a result, Avelo enjoys considerable reputation and goodwill for its distinctive AVELO Marks and trade dress throughout the United States, making them strong marks entitled to a broad scope of protection.

Our client is the owner of trademarks in the United States and other countries, including U.S. Trademark Registration Nos. 6513201, 6657107, 6680758, 6910702, and 7072450, among others. The certificates of registration for these federal trademarks are enclosed for your reference.

It has come to our attention that Proton Associates, LLC dba AvGeek Action Alliance (collectively “AvGeek”) recently launched a campaign entitled “*The avelNo! campaign*” via the domains <avelno.com> and <avgeekaction.com> urging travelers to boycott Avelo’s air transportation services and soliciting financial donations to support its cause, and which prominently feature our

Seth Miller  
Proton Associates, LLC dba  
AvGeek Action Alliance  
May 9, 2025  
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client's federally protected trademarks and trade dress. *See attached.* We have also discovered that AvGeek has launched a marketing initiative in which the billboard below is displayed adjacent to the Tweed-New Haven Airport (HVN) in New Haven, Connecticut:



Given your clear familiarity<sup>1</sup> with Avelo and its trademarks, the blatant use of our client's trademarks and trade dress with "*The aveNo! campaign*," and associated websites, billboards, and marketing material, constitutes deliberate and willful trademark infringement and unfair competition.

To be clear, the unauthorized use of our client's trademarks constitutes commercial speech in commerce and falls within the jurisdictional purview of the Lanham Act, 15 U.S.C. § 1114. *Taubman v. Webfeats*, 319 F.3d 770, 774 (6<sup>th</sup> Cir. 2003) ("The Lanham Act is constitutional because it only regulates commercial speech, which is entitled to protections under the First Amendment.")

AvGeek's websites actively solicit contributions ("*Help Support the Alliance!*") and feature links directing online users to AvGeek's Stripe webpage allowing for the processing of online donations to support its cause, i.e., "[y]our donations will support our efforts to amplify our messaging around various aviation-related social justice issues."

When faced with similar facts, courts have held commercial use is satisfied when the trademarks are used in connection with any goods or services, and not just those directly competing with the trademark owner. *Obh, Inc. v. Spotlight Magazine, Inc.*, 86 F. Supp.2d 176, 186 (W.D.N.Y. 2000) ("the 'in connection with' requirement is not only met by use of the mark in connection with goods

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<sup>1</sup> See [www.millerforhn.com/when-worlds-collide](http://www.millerforhn.com/when-worlds-collide) ("I know Avelo the company reasonably well. I've taken a handful of flights, including two different inaugural trips. I've interviewed CEO Andrew Levy a few times.")

Seth Miller  
 Proton Associates, LLC dba  
 AvGeek Action Alliance  
 May 9, 2025  
 Page 3 of 4

or services distributed or advertised by the alleged infringer; it may also be met by use in connection with the goods or services distributed by the trademark holder.”)

Likewise, the billboard display outside the Tweed-New Haven (HVN) airport is a deliberate attempt to interfere with Avelo’s air transportation services because, as you are undoubtedly aware, New Haven is Avelo’s hub for east coast flights. Thus, the appropriation of the AVELO house mark and targeting of Avelo’s customers directly affects our client’s ability to offer and render its services to current and prospective consumers. *Planned Parenthood Fed. of Am., Inc. v. Bucci*, 1997 WL 133313 at \*3-6 (S.D.N.Y. 1997) (holding that use of another’s trademark constitutes a “use in commerce” because it affects their ability to offer their services and thus is “classically competitive.”). We have already been notified of instances of actual confusion wherein consumers have mistakenly believed that the billboard is sponsored or affiliated with Avelo, demonstrating that confusion is not only likely but inevitable.



The mutilation of our client’s well-known house mark  also constitutes dilution by tarnishment under the Federal Trademark Dilution Act, 15 U.S.C. §1125(c), which imposes liability even if a likelihood of confusion is not found between the parties’ respective services. *See, e.g., Deere & Co. v. MTD Products, Inc.*, 41 F.3d 39 (2<sup>nd</sup> Cir. 1994) (defendant’s use of a modified form of the “leaping deer” trademark constituted dilution of a famous mark).

In sum, AvGeek’s unauthorized use of Avelo’s trademarks and trade dress constitutes commercial activity that is damaging to Avelo, its trademarks, and its business, and which is not protected by the affirmative defense of nominative fair use.

Avelo’s remedies under state and federal trademark laws, Sections 32 and 43(a) of the Lanham Act, 15 U.S.C. §§ 1114 and 1125(a), for AvGeek’s willful trademark infringement and unfair competition include, *inter alia*, the ability to recover as damages three times AvGeek’s profits attributable to the infringement. In addition, Avelo’s remedies under federal copyright law include the recovery of statutory damages of up to \$150,000 per infringement. As you may know, federal trademark and copyright law provide for the recovery of attorney’s fees and costs in exceptional cases like this where infringement is egregious and willful.

We also note that the Lanham Act and the Copyright Act provide for individual liability for those directly responsible for the infringements. Thus, the above-identified liability will extend to you as an individual and not just Proton Associates, LLC.

To resolve this matter, we demand that AvGeek immediately cease all use of the AVELO Marks, logos, designs, and trade dress on (1) websites accessible at the domains <avelno.com>, <avgeekaction.com>, and <millerfornh.com>, (2) billboards (both electronically and in printed form), (3) social media, and (4) that it remove all copyrighted pictures of Avelo aircraft displaying Avelo’s trademarks and trade dress. We further demand that AvGeek shut down the website displayed at the domain <avelno.com> and permanently cease all fund-raising efforts affiliated with the same.

Seth Miller  
Proton Associates, LLC dba  
AvGeek Action Alliance  
May 9, 2025  
Page 4 of 4

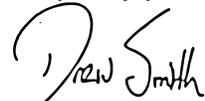
Once all of this has been accomplished, we demand that you provide signed written assurances, both individually and as owner Proton Associates, LLC dba AvGeek Action Alliance, that you have permanently ceased all use of Avelo's trademarks and all other efforts to falsely suggest an association, connection or affiliation between yourself and AvGeek with Avelo and its trademarks.

To avoid any escalation of this matter, we ask that you provide your written response to this letter no later than 5:00 pm on Friday, May 16, 2025.

To the extent you do not comply with Avelo's demands, please be advised that this letter is sent without prejudice to any rights or remedies available to our client, all of which are reserved.

Please do not hesitate to contact the undersigned if you have any questions or need further information related to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Drew M. Smith". The signature is written in a cursive style with a large initial "D" and "S".

Drew M. Smith

cc: Avelo, Inc.

# United States of America

United States Patent and Trademark Office

# AVELO

**Reg. No. 6,910,702**

**Registered Nov. 29, 2022**

**Int. Cl.: 9, 39, 42**

**Service Mark**

**Trademark**

**Principal Register**

Avelo, Inc. (DELAWARE CORPORATION)  
5847 San Felipe Street, Suite 1900  
Houston, TEXAS 77057

CLASS 9: downloadable computer application software for mobile devices and handheld computers in the field of airline transportation, namely, software for airline passenger transportation and loyalty awards programs for airline passengers; downloadable computer application software for mobile devices and handheld computers in the field of airline transportation, namely, software for tracking and redeeming loyalty program awards for airline passengers; downloadable computer application software for mobile devices and handheld computers in the field of airline transportation, namely, software for ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status

FIRST USE 5-10-2021; IN COMMERCE 5-10-2021

CLASS 39: transportation services, namely, transportation of persons by air; airline transportation services; air transportation reservation services, namely, ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status; providing information in the field of airline transportation by means of a global computer network; providing a website featuring information in the field of airline passenger transportation

FIRST USE 5-00-2021; IN COMMERCE 5-00-2021

CLASS 42: Providing temporary use of non-downloadable computer software in the field of airline transportation, namely, software for airline passenger transportation and loyalty awards programs for airline passengers; Providing temporary use of non-downloadable computer software in the field of airline transportation, namely, software for tracking and redeeming loyalty program awards for airline passengers; Providing temporary use of nondownloadable computer software in the field of airline transportation, namely, software for ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status

FIRST USE 4-8-2021; IN COMMERCE 4-8-2021

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR



*Katherine Kelly Vidal*

Director of the United States  
Patent and Trademark Office





No claim is made to the exclusive right to use the following apart from the mark as shown: "AIRLINES"

SER. NO. 90-329,885, FILED 11-19-2020

# United States of America

## United States Patent and Trademark Office



**Reg. No. 6,657,107**

**Registered Mar. 01, 2022**

**Int. Cl.: 9, 39, 42**

**Service Mark**

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5847 SAN FELIPE STREET, SUITE 1900  
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FIRST USE 5-10-2021; IN COMMERCE 5-10-2021

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FIRST USE 5-00-2021; IN COMMERCE 5-00-2021

CLASS 42: providing temporary use of non-downloadable computer software in the field of airline transportation, namely, software for airline passenger transportation and loyalty awards programs for airline passengers; providing temporary use of non-downloadable computer software in the field of airline transportation, namely, software for tracking and redeeming loyalty program awards for airline passengers; providing temporary use of non-downloadable computer software in the field of airline transportation, namely, software for ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status



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FIRST USE 4-8-2021; IN COMMERCE 4-8-2021

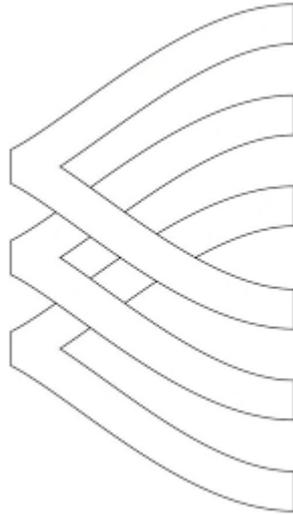
The color(s) violet, teal, white, and yellow is/are claimed as a feature of the mark.

The mark consists of three horizontal wishbone shapes, each having symmetrical top and bottom elements and flat ends, with the top wishbone in the color teal overlapping the middle and bottom wishbone and with the middle wishbone in the color white overlapping the bottom wishbone in the color yellow, all of which appearing against a violet background.

SER. NO. 90-547,905, FILED 02-25-2021

# United States of America

## United States Patent and Trademark Office



**Reg. No. 6,513,201**

**Registered Oct. 05, 2021**

**Int. Cl.: 9, 39, 42**

**Service Mark**

**Trademark**

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FIRST USE 5-10-2021; IN COMMERCE 5-10-2021

CLASS 39: transportation services, namely, transportation of persons by air; airline transportation services; air transportation reservation services, namely, ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status; providing information in the field of airline transportation by means of a global computer network

FIRST USE 5-00-2021; IN COMMERCE 5-00-2021

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Director of the United States Patent and Trademark Office



website featuring information in the field of airline passenger transportation

FIRST USE 4-8-2021; IN COMMERCE 4-8-2021

The mark consists of three horizontal wishbone shapes, each having symmetrical top and bottom elements and flat ends, with the top wishbone overlapping the middle and bottom wishbone and with the middle wishbone overlapping the bottom wishbone.

SER. NO. 90-452,829, FILED 01-07-2021

# United States of America

## United States Patent and Trademark Office



**Reg. No. 7,072,450**

**Registered Jun. 06, 2023**

**Int. Cl.: 39**

**Service Mark**

**Principal Register**

Avelo, Inc. (DELAWARE CORPORATION)  
5847 San Felipe Steet, Suite 1900  
Houston, TEXAS 77057

CLASS 39: transportation services, namely, transportation of persons by air; airline transportation services

FIRST USE 5-00-2021; IN COMMERCE 5-00-2021

The color(s) violet, white, silver, teal and yellow is/are claimed as a feature of the mark.

The mark consists of the trade dress of the exterior of a passenger airplane on which the services are rendered, comprising the word "AVELO" in violet against a white background on the anterior portion of an airplane fuselage, with the posterior airplane fuselage and airplane tail, engine, and wingtips in the color violet and the engine featuring a silver ring on the anterior portion. The airplane tail featuring a design consisting of three horizontal wishbone shapes, each having symmetrical top and bottom elements and flat ends, with the top wishbone in the color teal overlapping the middle and bottom wishbone and with the middle wishbone in the color white overlapping the bottom wishbone in the color yellow, all of which appearing against a violet background. The broken lines depicting the outline of the airplane fuselage, engines, wingtips, and tail indicate placement of the mark on the goods and are not part of the mark.

OWNER OF U.S. REG. NO. 6680758, 9054790

SER. NO. 97-349,227, FILED 04-06-2022

*Katherine Kelly Vidal*

Director of the United States  
Patent and Trademark Office



# avelNO!

## Does your vacation support their deportation?

Today more than ever how and who we travel with matters. Your next trip could be supporting the next deportation flight.

Learn more below, or [donate today](#) to help keep air travel accountable

It is a simple question, one you probably never considered. But now, every traveler flying with Avelo must consider the impact of that decision. In early April the carrier announced a deal to operate three aircraft on behalf of DHS/ICE, handling deportation flights from Mesa, AZ to foreign destinations. And the CEO is clear: deportation flights and the carrier's regular passenger flights are closely linked.

**"We realize this is a sensitive and complicated topic. After significant deliberations, we determined this charter flying will provide us with the stability to continue expanding our core scheduled passenger service and keep our more than 1,100 Crewmembers employed for years to come."**

- Avelo Airlines Founder and CEO Andrew Levy

Every business makes decisions on who it partners with. Similarly, every consumer must choose which businesses to patronize.

Picking a business that puts profits ahead of humanity is a bad choice.

**That's why we're asking you to just say "avelNO!" and not fly with Avelo until it stops operating charters for ICE.**

Our campaign is working hard to get the word out, starting with a billboard near the carrier's main operations at New Haven's Tweed Airport.



Your support will enable us to extend and expand that messaging.

The most important thing you can do is not fly Avelo. And if you're able, [we'd appreciate your support](#) for the avelNO! campaign.





*Keep the Avelo cabins this empty; just say aveINO!*

If you'd like to donate more than \$999 [this link can help](#) with that.

aveINO! is a project of the [AvGeek Action Alliance](#)

## Welcome to the AvGeek Action Alliance



Aviation is a global industry. People, goods, ideas, and more all cross the globe easily and efficiently thanks to planes and the millions of people supporting them. Planes connect families, link cultures, and help tear down the barriers between us. That's a good thing.

### [Help Support the Alliance!](#)

But those same systems can also be used for ill. Planes are used to move weapons, to facilitate deportations, and otherwise destroy families and society.

*"Travel is fatal to prejudice, bigotry, and narrow-mindedness, and many of our people need it sorely on these accounts. Broad, wholesome, charitable views of men and things cannot be acquired by vegetating in one little corner of the earth all one's lifetime."*

- Mark Twain, *The Innocents Abroad / Roughing It*

The AvGeek Action Alliance is committed to supporting the positive parts of the industry, while aggressively calling out those who choose otherwise. In short, every business must make a decision as to who it partners with. Similarly, every consumer must choose which businesses to patronize.

Picking a business that puts profits ahead of humanity is a bad choice.

*"Perhaps travel cannot prevent bigotry, but by demonstrating that all peoples cry, laugh, eat, worry, and die, it can introduce the idea that if we try and understand each other, we may even become friends."*

- Maya Angelou, *Wouldn't Take Nothing for My Journey Now*

Your support - financial or otherwise - helps us get the message out, to hold companies accountable for their actions. Please help share our message.

### Our Actions:

- [The avelNO! campaign](#), urging travelers to avoid travel with Avelo based on the carrier's recently signed deal to operate three aircraft for deportation flights on behalf of ICE



### [Help Support the Alliance!](#)

If you'd like to donate more than \$999 [this link can help](#) with that.

#### The fine print:

Your donations will help support our efforts to amplify our messaging around various aviation-related social justice issues. We're also open to suggestions for issues that need to be addressed.

Note: We are **NOT** a 501(c)3. Your donations are **NOT** tax deductible. Sorry about that. That's on the to do list, but we're not there yet. That said, 100% of all donations, less CC fees, will be used for the campaigns. No overhead here.

Please address any questions, concerns, requests, suggestions, or hate mail to [the AvGeek Action Alliance team](#).

We do not collect any information about visitors to this site. If you donate to the group some information is collected by Stripe for billing purposes. We will never share, sell, rent, publicize, or otherwise do anything with that data, other than to maybe send a thank you note at some point.

© Proton Associates, LLC d/b/a AvGeek Action Alliance

AvGeek Action Alliance

Pay AvGeek Action Alliance

**\$1.00**

Donation to AvGeek Action Alliance \$1.00  
Thank you for supporting our efforts with your donation.  
Qty 1

Subtotal \$1.00

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Email

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(201) 555-0123

link

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# EXHIBIT D

## LETTER TO LAMAR

# EXHIBIT D



Drew M. Smith, Esq.  
Principal

Resonate IP, LLC  
PO Box 1650 (Mail)  
115 NW Oregon Ave., Ste 12  
Bend, OR 97709

dsmith@resonateip.com  
www.resonateip.com  
541.240.8020

May 9, 2025

*Via E-Mail Only*

Russel Primeaux – [russel.primeaux@keanmiller.com](mailto:russel.primeaux@keanmiller.com)  
Kean Miller LLP  
400 Convention Street, Suite 700  
Baton Rouge, Louisiana 70802

**Re: Unauthorized Use of Avelo, Inc. Trademarks**

Dear Mr. Primeaux,

This firm represents Avelo, Inc. (“Avelo”) in connection with trademark matters. We are writing you as the attorney of record for United States trademark Reg. Nos. 1874157, 2591231, and others owned by Lamar Media Corp. through its subsidiary The Lamar Company, LLC (collectively “Lamar”).

Since as early as April 2021, Avelo has used the designations AVELO and AVELO AIRLINES (collectively the “AVELO Marks”) as a house and trademark for airline transportation services in the United States, and in other countries. Avelo’s violet and secondary colors (teal, yellow, white), and livery design featuring the same, are unique to the industry and constitute inherently distinct trade dress. More information about our client and its airline services can be found on its website, [www.aveloair.com](http://www.aveloair.com).

Our client has spent significant resources developing and promoting its AVELO Marks and trade dress to distinguish its transportation services in the United States and abroad and has been widely featured in national publications such as The New York Times, The Wall Street Journal, Washington Post, as well as in countless travel blogs and websites.

As a result, Avelo enjoys considerable reputation and goodwill for its distinctive AVELO Marks and trade dress throughout the United States, making them strong marks entitled to a broad scope of protection.

Our client is the owner of trademarks in the United States and other countries, including U.S. Trademark Reg. Nos. 6513201, 6657107, 6680758, 6910702, and 7072450, among others. The certificates of registration for these federal trademarks are enclosed for your reference.

Russel Primeaux  
May 9, 2025  
Page 2 of 3

It has come to our attention that billboards owned by your client are being used by Proton Associates, LLC dba AvGeek Action Alliance and its founder Seth Miller (collectively “AvGeek”) on a marketing campaign which prominently features our client’s federally protected trademarks and trade dress, urging travelers to boycott Avelo’s air transportation services and soliciting financial donations to support its cause.

The billboard depicted below is displayed adjacent to the Tweed-New Haven Airport (HVN) in New Haven, Connecticut and we have reason to believe that AvGeek is preparing to use other Lamar billboards to display similar content at different locations:



AvGeek’s conduct constitutes commercial activity regulated by the Lanham Act as the billboard promotes the avelNo.com website that solicits and allows for the processing of online donations to support its cause, *i.e.*, “[y]our donations will support our efforts to amplify our messaging around various aviation-related social justice issues.” *See attached.* Likewise, AvGeek’s billboard display outside the New Haven airport, Avelo’s hub for east coast flights, is a deliberate attempt to interfere with the rendering of Avelo’s air transportation services to current and prospective consumers.

There are already documented instances of actual confusion wherein consumers have mistakenly believed that the billboard is sponsored or affiliated with Avelo, demonstrating that confusion is not only likely but inevitable.

In short, AvGeek’s conduct constitutes commercial activity that is damaging to Avelo, its trademarks, and its business, and which is not protected by the affirmative defense of nominative fair use.

As you likely know, a party who does not directly infringe another’s trademark may still be secondarily liable for the infringement under the Lanham Act if (1) their acts contribute to or induce direct infringement of a federal trademark by another and (2) they know, or have reason to believe, that infringement of another’s trademark has occurred and they continue to participate in the

Russel Primeaux  
May 9, 2025  
Page 3 of 3

infringing process. *Inwood Labs, Inc. v. Ives Labs, Inc.*, 456 U.S. 844, 854 (1982) (“[I]f a manufacturer or distributor intentionally induces another to infringe a trademark, or it continues to supply its product to one whom it knows or has reason to know is engaging in trademark infringement, the manufacturer or distributor is contributorily responsible for any harm done as a result of the deceit.”)

We presume that Lamar was unaware of our client’s trademark and trade dress rights when it permitted AvGeek to display the above-depicted content on Lamar’s billboard, and that it did not have advanced notice that AvGeek would engage in such unauthorized use and infringing conduct. We also trust that you appreciate our client’s not wanting the public to be confused, and in wanting to prevent damage to the goodwill associated with its distinctive AVELO Marks, logos, and trade dress.

To resolve this matter, we request that Lamar cease its participation in the infringement of Avelo’s trademarks and trade dress and immediately remove the above-depicted billboard in New Haven, Connecticut, as well as any other location which AvGeek has contracted with Lamar to display infringing material.

Once this has been accomplished, we request that Lamar Media Corp. and The Lamar Company, LLC provide signed written assurances that they have permanently ceased their association with Proton Associates, LLC and its founder, Seth Miller, and that they will not knowingly engage in or contribute to the infringement of Avelo’s trademarks and trade dress in the future.

Although we trust that you will take immediate action to address this matter, we ask that you provide a written response to this letter no later than 5:00 pm CST Friday May 16, 2025

We look forward to receiving your prompt response to this letter and to resolving this matter expeditiously. This letter is sent without prejudice to any rights or remedies available to our client, all of which are reserved.

I remain available should you wish to discuss this matter in further detail.

Very truly yours,



Drew M. Smith

cc: Avelo, Inc.

Digitally signed by United States Patent and Trademark Office  
Location: United States Patent and Trademark Office  
Date: 2022.11.13 03:20:05 -05'00'

# United States of America

## United States Patent and Trademark Office

# AVELO

**Reg. No. 6,910,702**

**Registered Nov. 29, 2022**

**Int. Cl.: 9, 39, 42**

**Service Mark**

**Trademark**

**Principal Register**

Avelo, Inc. (DELAWARE CORPORATION)  
5847 San Felipe Street, Suite 1900  
Houston, TEXAS 77057

CLASS 9: downloadable computer application software for mobile devices and handheld computers in the field of airline transportation, namely, software for airline passenger transportation and loyalty awards programs for airline passengers; downloadable computer application software for mobile devices and handheld computers in the field of airline transportation, namely, software for tracking and redeeming loyalty program awards for airline passengers; downloadable computer application software for mobile devices and handheld computers in the field of airline transportation, namely, software for ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status

FIRST USE 5-10-2021; IN COMMERCE 5-10-2021

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FIRST USE 5-00-2021; IN COMMERCE 5-00-2021

CLASS 42: Providing temporary use of non-downloadable computer software in the field of airline transportation, namely, software for airline passenger transportation and loyalty awards programs for airline passengers; Providing temporary use of non-downloadable computer software in the field of airline transportation, namely, software for tracking and redeeming loyalty program awards for airline passengers; Providing temporary use of nondownloadable computer software in the field of airline transportation, namely, software for ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status

FIRST USE 4-8-2021; IN COMMERCE 4-8-2021

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR



*Katherine Kelly Vidal*

Director of the United States  
Patent and Trademark Office



# United States of America

## United States Patent and Trademark Office

# AVELO AIRLINES

**Reg. No. 6,680,758**

**Registered Mar. 22, 2022**

**Int. Cl.: 9, 39, 42**

**Service Mark**

**Trademark**

**Principal Register**

AVELO, INC. (DELAWARE CORPORATION)  
5847 SAN FELIPE STREET, SUITE 1900  
HOUSTON, TEXAS 77057

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FIRST USE 11-4-2021; IN COMMERCE 11-4-2021

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR



A handwritten signature in black ink, appearing to read "Dawn Hanford".

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Director of the United States Patent and Trademark Office



No claim is made to the exclusive right to use the following apart from the mark as shown: "AIRLINES"

SER. NO. 90-329,885, FILED 11-19-2020

# United States of America

## United States Patent and Trademark Office



**Reg. No. 6,657,107**

**Registered Mar. 01, 2022**

**Int. Cl.: 9, 39, 42**

**Service Mark**

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Director of the United States Patent and Trademark Office



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The mark consists of three horizontal wishbone shapes, each having symmetrical top and bottom elements and flat ends, with the top wishbone in the color teal overlapping the middle and bottom wishbone and with the middle wishbone in the color white overlapping the bottom wishbone in the color yellow, all of which appearing against a violet background.

SER. NO. 90-547,905, FILED 02-25-2021

# United States of America

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CLASS 39: transportation services, namely, transportation of persons by air; airline transportation services; air transportation reservation services, namely, ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status; providing information in the field of airline transportation by means of a global computer network

FIRST USE 5-00-2021; IN COMMERCE 5-00-2021

CLASS 42: Providing temporary use of non-downloadable computer software in the field of airline transportation, namely, software for airline passenger transportation and loyalty awards programs for airline passengers; Providing temporary use of non-downloadable computer software in the field of airline transportation, namely, software for tracking and redeeming loyalty program awards for airline passengers; Providing temporary use of nondownloadable computer software in the field of airline transportation, namely, software for ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status; providing a



Performing the Functions and Duties of the  
Under Secretary of Commerce for Intellectual Property and  
Director of the United States Patent and Trademark Office



website featuring information in the field of airline passenger transportation

FIRST USE 4-8-2021; IN COMMERCE 4-8-2021

The mark consists of three horizontal wishbone shapes, each having symmetrical top and bottom elements and flat ends, with the top wishbone overlapping the middle and bottom wishbone and with the middle wishbone overlapping the bottom wishbone.

SER. NO. 90-452,829, FILED 01-07-2021

# United States of America

## United States Patent and Trademark Office



**Reg. No. 7,072,450**

**Registered Jun. 06, 2023**

**Int. Cl.: 39**

**Service Mark**

**Principal Register**

Avelo, Inc. (DELAWARE CORPORATION)  
5847 San Felipe Steet, Suite 1900  
Houston, TEXAS 77057

CLASS 39: transportation services, namely, transportation of persons by air; airline transportation services

FIRST USE 5-00-2021; IN COMMERCE 5-00-2021

The color(s) violet, white, silver, teal and yellow is/are claimed as a feature of the mark.

The mark consists of the trade dress of the exterior of a passenger airplane on which the services are rendered, comprising the word "AVELO" in violet against a white background on the anterior portion of an airplane fuselage, with the posterior airplane fuselage and airplane tail, engine, and wingtips in the color violet and the engine featuring a silver ring on the anterior portion. The airplane tail featuring a design consisting of three horizontal wishbone shapes, each having symmetrical top and bottom elements and flat ends, with the top wishbone in the color teal overlapping the middle and bottom wishbone and with the middle wishbone in the color white overlapping the bottom wishbone in the color yellow, all of which appearing against a violet background. The broken lines depicting the outline of the airplane fuselage, engines, wingtips, and tail indicate placement of the mark on the goods and are not part of the mark.

OWNER OF U.S. REG. NO. 6680758, 9054790

SER. NO. 97-349,227, FILED 04-06-2022

*Katherine Kelly Vidal*

Director of the United States  
Patent and Trademark Office



# avelNO!

## Does your vacation support their deportation?

Today more than ever how and who we travel with matters. Your next trip could be supporting the next deportation flight.

Learn more below, or [donate today](#) to help keep air travel accountable

It is a simple question, one you probably never considered. But now, every traveler flying with Avelo must consider the impact of that decision. In early April the carrier announced a deal to operate three aircraft on behalf of DHS/ICE, handling deportation flights from Mesa, AZ to foreign destinations. And the CEO is clear: deportation flights and the carrier's regular passenger flights are closely linked.

**"We realize this is a sensitive and complicated topic. After significant deliberations, we determined this charter flying will provide us with the stability to continue expanding our core scheduled passenger service and keep our more than 1,100 Crewmembers employed for years to come."**

- Avelo Airlines Founder and CEO Andrew Levy

Every business makes decisions on who it partners with. Similarly, every consumer must choose which businesses to patronize.

Picking a business that puts profits ahead of humanity is a bad choice.

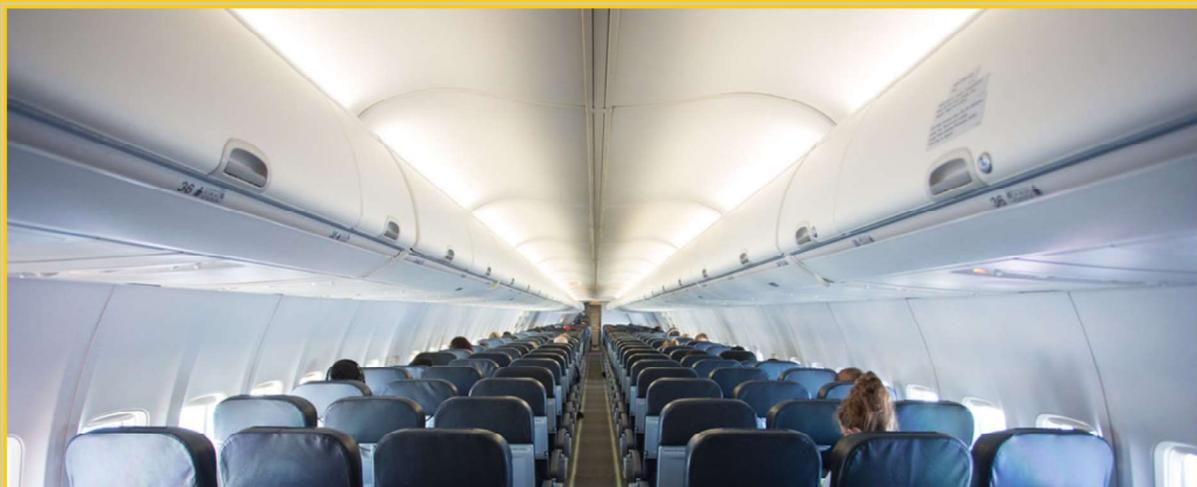
**That's why we're asking you to just say "avelNO!" and not fly with Avelo until it stops operating charters for ICE.**

Our campaign is working hard to get the word out, starting with a billboard near the carrier's main operations at New Haven's Tweed Airport.



Your support will enable us to extend and expand that messaging.

The most important thing you can do is not fly Avelo. And if you're able, [we'd appreciate your support](#) for the avelNO! campaign.





*Keep the Avelo cabins this empty; just say aveINO!*

If you'd like to donate more than \$999 [this link can help](#) with that.

aveINO! is a project of the [AvGeek Action Alliance](#)

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
PROTON ASSOCIATES LLC, and SETH MILLER
(b) County of Residence of First Listed Plaintiff
(c) Attorneys (Firm Name, Address, and Telephone Number)
Bradley S. Schrager, Esq. and Daniel Bravo, Esq.
Bravo Schrager LLP, 6675 S. Tenaya Way, Suite 200,
Las Vegas, NV 89113. (702) 996-1724

DEFENDANTS
AVELO AIRLINES, INC.
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State 1 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3
Incorporated or Principal Place of Business In This State 4 4
Incorporated and Principal Place of Business In Another State 5 5
Foreign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes codes for various legal claims like Personal Injury, Contract, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Declaratory Judgment (28 U.S.C. § 2201)
Brief description of cause:
Plaintiffs seek a declaratory judgment that his free speech does not infringe Defendant's trademarks, trade dress, or copyright.

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ Over \$75,000
CHECK YES only if demanded in complaint:
JURY DEMAND: [X] Yes [ ] No

VIII. RELATED CASE(S) IF ANY (See instructions):
JUDGE DOCKET NUMBER

DATE May 16, 2025 SIGNATURE OF ATTORNEY OF RECORD /s/ Bradley S. Schrager

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Nevada

PROTON ASSOCIATES LLC, and SETH MILLER,

Plaintiff(s)

v.

AVELO AIRLINES, INC.,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) AVELO AIRLINES, INC.
112 North Curry Street
Carson City, NV 89703

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Bradley S. Schragger, Esq.
Daniel Bravo, Esq.
BRAVO SCHRAGER LLP
6675 S. Tenaya Way, Suite 200
Las Vegas, NV 89113

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: