

# EXHIBIT C

## LETTER TO SETH MILLER

# EXHIBIT C



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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  
Page 2 of 4

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.millerforh.com/when-worlds-collide](http://www.millerforh.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

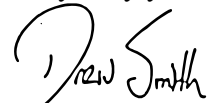
Once all of this has been accomplished, we demand that you provide signed written assurances, both individually and as owner Proton Associates, LLC dba AvGeek Action Alliance, that you have permanently ceased all use of Avelo's trademarks and all other efforts to falsely suggest an association, connection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

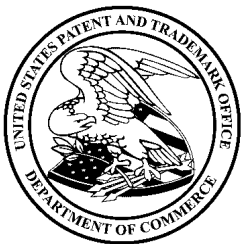
CLASS 39: transportation services, namely, transportation of persons by air; airline transportation services; air transportation reservation services, namely, ticketing airline passengers, airline flight seating assignments, and checking reservations, flight schedules, and flight status; providing information 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





# 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

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 4-8-2021; IN COMMERCE 4-8-2021

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 4-8-2021; IN COMMERCE 4-8-2021

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 website featuring information in the field of airline passenger transportation

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



*Dennis H. H. H.*

Performing the Functions and Duties of the  
Under Secretary of Commerce for Intellectual Property and  
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**

**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

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



*Dennis H. H. H.*

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



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**

**Principal Register**

AVELO, INC. (DELAWARE CORPORATION)

5847 San Felipe Street, Suite 1900

Houston, TEXAS 77057

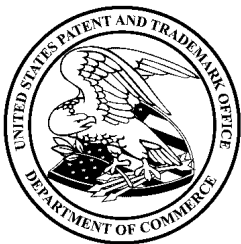
CLASS 9: downloadable computer application software for mobile devices and handheld computers in the field of airline transportation, namely, software for airline passenger transportation and loyalty awards programs for airline passengers; downloadable computer application software for mobile devices 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

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



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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.

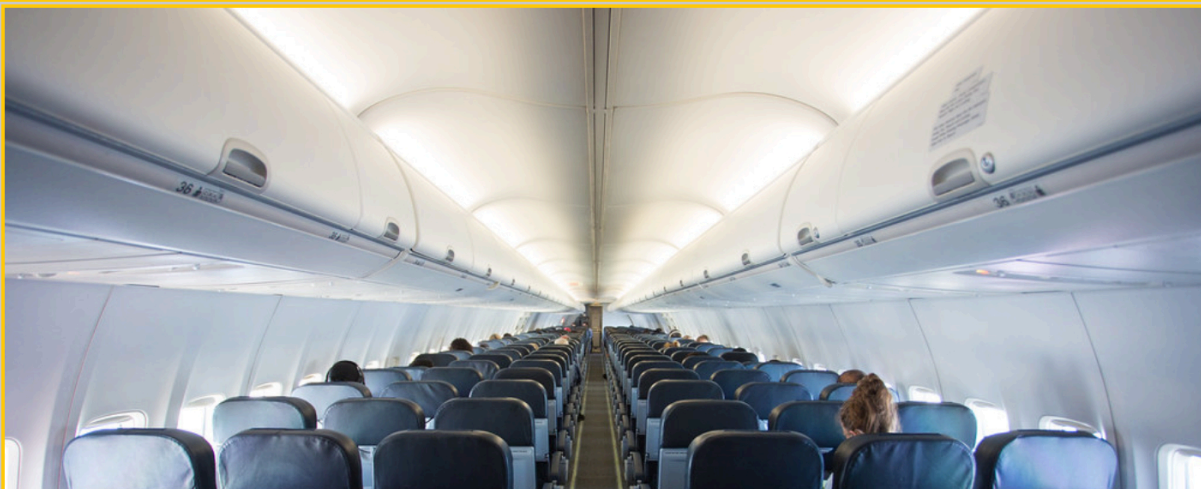
**That's why we're asking you to just say "avelNO!" and not fly with Avelo until it stops operating charters for ICE.**

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.





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 ave!NO! 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.

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 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






**Tax** ⓘ \$0.00

**Total due** \$1.00

#### Contact information

Email

#### Payment method

- ☐  Card 
- ☐  Amazon Pay
- ☐  Klarna
- ☐  Bank

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