

ADMINISTRATIVE PANEL DECISION

American Airlines, Inc. v. Quan Zhongjun, Juanita Co.
Case No. D2023-1253

1. The Parties

The Complainant is American Airlines, Inc., United States of America (“United States”), represented by Greenberg Traurig, LLP, United States.

The Respondent is Quan Zhongjun, Juanita Co., China.

2. The Domain Names and Registrar

The disputed domain names <enboyair.com>, <envayair.com>, <enveyair.com>, <envoayir.com>, <envotair.com>, <envouair.com>, <envoyaie.com>, <envoyait.com>, <envoyaor.com>, <envoyari.com>, <envoyaur.com>, <envoyiar.com>, <envpyair.com>, <envyoair.com>, <evnoyair.com>, <invoyair.com>, <nevoyair.com> are registered with Cosmotown, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 22, 2023. On March 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 24, 2023, the Registrar transmitted by email to the Center its verification response:

- (a) confirming it is the Registrar for the disputed domain names;
- (b) disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Name Redacted) and contact information in the Complaint;
- (c) stating the registration agreements are in English.

The Center sent an email communication to the Complainant on March 24, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on March 29, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for

Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 4, 2023.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on May 26, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

According to the Complaint, the Complainant is the second largest air carrier in the world. It and its affiliates provide services to over 350 destinations, operating nearly 7,000 daily flights.

One of the Complainant’s subsidiaries is Envoy Air Inc. According to the Complaint, it is the largest regional carrier for the Complainant’s group. It operates 185 aircraft on 1,000 flights to over 150 destinations. Envoy Air Inc. has more than 18,000 employees.

Envoy Air Inc. is the holder of the domain name <envoyair.com> which resolves to a website for employment related matters for its employees and potential employees or job applicants.

Envoy Air Inc. appears to have been operating for 25 years under the ENVOY trademark. Amongst other things, it is the owner of United States Registered Trademark No. 4,867,612, ENVOY, which has been registered in the Principal Register since December 8, 2015, in respect of a range of air transport and aircraft maintenance and repair services in, respectively, International Classes 39 and 37.

The Complaint also includes evidence of registrations in other jurisdictions including the European Union, an International Registration and the United Kingdom.

According to the WhoIs reports, each of the disputed domain names was registered on September 1, 2022.

Each of the disputed domain name resolves to a website which simply features pay-per-click (“PPC”) advertising links to services such as employee onboarding, job application tracking, job postings, recruiting software.

5. Discussion and Findings

No response has been filed. The Complaint and Written Notice have been sent, however, to the Respondent at the electronic and physical coordinates confirmed as correct by the Registrar in accordance with paragraph 2(a) of the Rules. Bearing in mind the duty of the holder of a domain name to provide and keep up to date correct WhoIs details, therefore, the Panel finds that the Respondent has been given a fair opportunity to present his or its case.

When a respondent has defaulted, paragraph 14(a) of the Rules requires the Panel to proceed to a decision on the Complaint in the absence of exceptional circumstances. Accordingly, paragraph 15(a) of the Rules requires the Panel to decide the dispute on the basis of the statements and documents that have been submitted and any rules and principles of law deemed applicable.

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of the disputed domain name, the Complainant must demonstrate each of the following:

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

The Panel notes that the Complaint has been brought in the name of the Complainant rather than its wholly owned subsidiary. As the owner of the registered trademarks relied on by the Complainant is a wholly owned subsidiary and so under the control and direction of the Complainant, the Complainant has sufficient standing to bring the Complaint. See e.g. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.4.1.

For simplicity, however, the Panel will refer to the Complainant as the owner of the trademark unless it becomes necessary to distinguish between the Complainant and its subsidiary.

A. Identical or Confusingly Similar

The first element that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark rights.

In the present case, the Complainant relies on and has proven rights in the registered trademark ENVOY.

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

In undertaking that comparison, it is permissible in the present circumstances to disregard the generic Top-Level Domain ("gTLD") component as a functional aspect of the domain name system. [WIPO Overview 3.0](#), section 1.11.

Disregarding the ".com" gTLD, therefore, the disputed domain names can be classified into three groups:

- (1) those which consist of the Complainant's trademark and misspellings or mis-typings of the word "air": <envoyait.com>, <envoyari.com>, <envoyaor.com>, <envoyiar.com>, <envoyaie.com>, <envoyaur.com>, and;
- (2) those which consist of misspellings or mis-typings of the Complainant's trademark and the word "air": <enboyair.com>, <envotair.com>, <nevoyair.com>, <envayair.com>, <enveyair.com>, <envouair.com>, <invoyair.com>, <envpyair.com>, <evnoyair.com>, and <envyoair.com>; and
- (3) <envoayir.com> which reverses the order of the "y" and the "a" in the expression "envoy air".

The third category is an obvious mis-typing of the Complainant's trademark and the word "air". Such mis-typings have long been recognised as not avoiding a finding of confusing similarity as the Complainant's trademark remains readily recognisable within the disputed domain name. See e.g. [WIPO Overview 3.0](#), section 1.9.

Taking the first group next, each disputed domain name contains the whole of the Complainant's trademark which remains clearly visually and aurally recognisable. That is sufficient in itself for a finding confusing similarity.

Turning to the second group, the misspellings and mis-typings of “envoy” also fall within the category of “typosquatting” and accordingly a finding of confusing similarity also applies.

Accordingly, the Panel finds that the Complainant has established that the disputed domain name is the Complainant’s trademark and the requirement under the first limb of the Policy is satisfied.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

The Respondent registered each disputed domain name after the Complainant began using its trademark and also after the Complainant had registered its trademark.

The Complainant states that it has not authorised the Respondent to use the disputed domain names. Nor is the Respondent affiliated with it or its corporate group.

The disputed domain name is not derived from the Respondent's name. Nor is there any suggestion of some other name by which the Respondent is commonly known from which the disputed domain name could be derived.

The use of the disputed domain names to generate revenue through PPC links does not qualify as a legitimate noncommercial or fair use for the purposes of paragraph 4(c)(iii) of the Policy.

The word “envoy” is a dictionary term. However, its dictionary meaning does not have any ordinary connection with the word “air” which, so far as the record in this proceeding discloses, has significance as a composite expression only through its use by the Complainant’s subsidiary. That conclusion is supported by the use to which the Respondent has put the disputed domain names: providing PPC links to services which compete with services offered by the Complainant through its own “www.envoyair.com” website or otherwise trade on the association of the expression “envoy air” with the Complainant’s subsidiary.

In addition and given that targetting, the Respondent’s use does not qualify as a good faith offering of goods or services for the purposes of paragraph 4(c)(i).

These matters, taken together, are sufficient to establish a *prima facie* case under the Policy that the Respondent has no rights or legitimate interests in the disputed domain name. The basis on which the Respondent has adopted the disputed domain name, therefore, calls for explanation or justification. The Respondent, however, has not sought to rebut that *prima facie* case or advance any claimed entitlement. Accordingly, the Panel finds the established the second requirement under the Policy also.

C. Registered and Used in Bad Faith

Under the third requirement of the Policy, the Complainant must establish that the disputed domain name has been both registered and used in bad faith by the Respondent. These are conjunctive requirements; both must be satisfied for a successful complaint: see e.g. *Burn World-Wide, Ltd. d/b/a BGT Partners v. Banta Global Turnkey Ltd* WIPO Case No. [D2010-0470](#).

In the present case, the Respondent has registered 17 disputed domain names targeting the expression “envoy air”. All of which were registered on the same day, reflecting a pattern of registrations preventing the Complainant from reflecting its mark in corresponding domain names.

While the words “envoy” and “air” are dictionary words, their combination in one composite expression is unusual and does not convey any commonly accepted meaning apart, it seems, from its use as the name and domain name of the Complainant’s subsidiary.

Further, as discussed in Section 5B above, there is no apparent connection between the Respondent and the term as a composite expression.

Further still, the Complainant’s subsidiary is a substantial business, being an organisation with over 18,000 employees servicing some 350 destinations and has been operating under its name for 25 years.

In these circumstances, the Panel infers the Respondent was well aware of the Complainant’s subsidiary’s name and trademark when registering the disputed domain names and did so to target the trademark in circumstances where the Respondent had no rights or legitimate interests in the trademark.

Accordingly, the Panel finds the disputed domain name was registered in bad faith.

Furthermore, the manner of use of each disputed domain name for PPC links of the character described above constitutes use in bad faith.

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

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain names:

<enboyair.com>, <envayair.com>, <enveyair.com>, <envoayir.com>, <envotair.com>, <envouair.com>, <envoyaie.com>, <envoyait.com>, <envoyaor.com>, <envoyari.com>, <envoyaur.com>, <envoyiar.com>, <envpyair.com>, <envyoair.com>, <envnoyair.com>, <invoyair.com>, <nevoyair.com>

be transferred to the Complainant.

/Warwick A. Rothnie/

Warwick A. Rothnie

Sole Panelist

Date: June 9, 2023