

## **ADMINISTRATIVE PANEL DECISION**

American Airlines, Inc. v. Carolina Rodrigues, Fundacion Comercio Electronico

Case No. D2023-1683

### **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 Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

### **2. The Domain Name and Registrar**

The disputed domain name <americanairlinesnumber.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 17, 2023. On April 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 18, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 20, 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 April 20, 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 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 19, 2023.

The Center appointed Zoltán Takács as the sole panelist in this matter on May 31, 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**

Founded in 1930, the Complainant is one of the largest air carriers in the United States and internationally. Prior to the COVID-19 pandemic, the Complainant and its affiliates served over 350 destinations in over 50 countries of the world, with nearly 7,000 daily flights.

The Complainant owns a large number of trademark registrations around the world consisting of or comprising the term “American Airlines” for travel and transportation services, travel agency and travel reservation services, including the United States Trademark Registration No. 4939082, registered since April 19, 2016.

The Complainant among others owns the domain name <americanairlines.com>. The domain name was registered on April 17, 1998, and redirects to the Complainant’s primary website at “www.aa.com”, which in addition to featuring general information about the Complainant and traveling allows customers to book travel reservations around the world, view, change and cancel travel reservations, check-in for flights, and view flight status.

The disputed domain name was registered on November 8, 2022, and has been resolving to a website that contains various travel related pay-per-click (PPC) links that are competitive with the Complainant.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant contends that the disputed domain name, which incorporates the entirety of its trademark is confusingly similar to it because the addition of the term “number” to the trademark does not sufficiently distinguish the disputed domain name from the trademark.

The Complainant alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name and is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy.

The Complainant contends that the Respondent has registered and is using the disputed domain in bad faith. Due to the well-known status of its trademark it is inconceivable that the Respondent did not have actual knowledge of its trademark at the time of registration of the disputed domain name, which the Respondent has been using to its own commercial benefit with redirecting Internet users to various travel related PPC websites competitive of with the Complainant.

The Complainant also submits that the Respondent’s pattern of trademark-abusive domain name registrations is further evidence of the Respondent’s bad faith.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

##### **B. Respondent**

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

## 6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel's decision be made "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that;

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

### A. Identical or Confusingly Similar

Under paragraph 4(a)(i) of the Policy, there are two requirements which the Complainant must establish, first that it has rights in a trademark or service mark, and second that the disputed domain name is identical or confusingly similar to the trademark or service mark.

It has been a consensus view among UDRP panels that if the complainant owns a nationally or regionally registered trademark, then it generally satisfies the threshold requirement of having trademark rights.

The Complainant produced evidence of having registered rights in the AMERICAN AIRLINES trademark by virtue of the trademark registration listed above, which satisfies the requirement of having trademark rights for the purpose of the Policy.

Having determined the presence of the Complainant's trademark rights, the Panel next assesses whether the disputed domain name is identical or confusingly similar to the Complainant's trademark.

According to section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the domain name. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the domain name.

According to section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.

According to section 1.11.1 of the [WIPO Overview 3.0](#), the applicable Top-Level Domain ("TLD") in a domain name (in this case ".com") is viewed as a standard registration requirement and as such is generally disregarded under the first element confusingly similar test.

The disputed domain name fully incorporates the Complainant's AMERICAN AIRLINES trademark, which is evidently recognizable in the disputed domain name.

The Respondent's addition of the term "number" to the Complainant's trademark in the disputed domain name does not prevent a finding of confusing similarity.

The Panel finds that the disputed domain name is therefore confusingly similar to the Complainant's trademark and that the first ground of the Policy is established.

## B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) before any notice of the dispute, its use of, or demonstrable preparation to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods and services;
- (ii) it has been commonly known by the domain name;
- (iii) it is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

According to section 2.1 of the [WIPO Overview 3.0](#), 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 the relevant evidence demonstrating its rights or legitimate interests in the domain name.

In the present case, the Complainant has submitted sufficient and uncontested evidence that it holds well-established prior rights in the AMERICAN AIRLINES trademark.

The Complainant has never authorized the Respondent to use its trademark, in a domain name, or otherwise.

There is no evidence that the Respondent is commonly known by the disputed domain name.

The website to which the disputed domain name resolves features PPC links to third party content in competition with the Complainant’s business. According to section 2.9 of the [WIPO Overview 3.0](#), “use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users”.

The Respondent failed to respond, and by doing so failed to offer the Panel any type of evidence set forth in paragraph 4(c) of the Policy, or otherwise counter to the Complainant’s *prima facie* case and the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name in accordance with paragraph 4(a)(ii) of the Policy.

## C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists a number of factors which, if found by the panel to be present, shall be evidence of registration and use of a domain name in bad faith. This non-exclusive list includes:

- (i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.

It has been well-established in prior decisions under the UDRP, with which the Panel agrees, that the Complainant's AMERICAN AIRLINES trademark is well-known globally (see *American Airlines, Inc. v Amanda bailey*, WIPO Case No. [D2022-4773](#)).

According to section 3.1.4 of the [WIPO Overview 3.0](#), UDRP "panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith".

The Respondent's replication of the Complainant's well-known trademark in the disputed domain name convinces the Panel that the Respondent clearly had the trademark in mind at the time of registration and that it registered the disputed domain name in order to target the Complainant and its trademark within the meaning of paragraph 4(b)(iv) of the Policy.

Last, but not least, the Complaint has evidenced the Respondent's extensive history of registering trademark-abusive domain names, which is further indication of the Respondent's bad faith pursuant to paragraph 4(b)(ii). Prior UDRP panels have condemned the Respondent for misappropriation of third parties' trademarks as domain names; for example: *Sanofi v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2018-2654](#); *Calvin Klein Trademark Trust & Calvin Klein, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2018-2882](#); *Starbucks Corporation v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-1991](#); *LEGO Juris A/S v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-2940](#).

For the reasons set out above, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith and that paragraph 4(a)(iii) of the Policy is satisfied.

## 7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <americanairlinesnumber.com> be transferred to the Complainant.

/Zoltán Takács/

**Zoltán Takács**

Sole Panelist

Date: June 12, 2023