

## **ADMINISTRATIVE PANEL DECISION**

American Airlines, Inc. v. 胡雪 (Ni Cary)

Case No. D2023-3324

### **1. The Parties**

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

The Respondent is 胡雪 (Ni Cary), China.

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

The disputed domain name <americanairlines.online> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

### **3. Procedural History**

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 2, 2023. On August 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 4, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. On August 11, 2023, the Center sent an email in English and Chinese regarding language of proceeding. The Complainant filed an amended Complaint in English on August 15, 2023, in which the Complainant requests English to be the language of proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on August 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 14, 2023.

The Center appointed Jonathan Agmon as the sole panelist in this matter on October 4, 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

The Complainant, American Airlines, Inc., is one of the largest air carriers in the world and enjoys a reputation in the United States and internationally as a premier airline for business and leisure travelers. During its over 90-year history, the Complainant and its affiliates have served over 360 destinations in nearly fifty countries, with nearly 7,000 daily flights.

The Complainant is the owner of numerous trademark registrations worldwide. In particular, it owns the following trademarks in China:

- Chinese Trademark Registration No. 616440 for AMERICAN AIRLINES, registered on October 30, 1992;
- Chinese Trademark Registration No. 779736 for AMERICAN AIRLINES, registered on March 21, 1995;
- Chinese Trademark Registration No. 18985730 for  , registered on February 28, 2017;
- Chinese Trademark Registration No. 18985731 for  , registered on February 28, 2017;
- Chinese Trademark Registration No. 26300193 for AMERICAN AIRLINES, registered on September 14, 2018;
- Chinese Trademark Registration No. 26300194 for AMERICAN AIRLINES, registered on September 21, 2018; and
- Chinese Trademark Registration No. 38219389 for AMERICAN AIRLINES, registered on March 7, 2020.

The Complainant created, owns, and used the domain names <americanairlines.com> and <aa.com> since 1998, of which the former redirects to the latter. It also states that it has a strong presence online by being active on various social media platforms and has over 2.6 million followers on Facebook and 1.6 million followers on Twitter.

The Complainant provided evidence that the Respondents registered the disputed domain name on April 11, 2023. The disputed domain name resolves to a Dan.com website where the disputed domain name is offered for sale for the price of USD 200.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant argues that the disputed domain name is confusingly similar to the Complainant's registered AMERICAN AIRLINES mark as the Respondent has intentionally registered a confusingly similar domain name that incorporates the Complainant's mark in its entirety.

The Complainant also argues that the Respondent lacks any rights or legitimate interests in the marks or the disputed domain name as it has not authorised the Respondent to use any of its trademarks or register the disputed domain name, and that the Respondent registered and continues to use the disputed domain name in bad faith.

## B. Respondent

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

## 6. Discussion and Findings

### 6.1 Language of the Proceeding

The language of the registration agreement for the disputed domain name is Chinese. The Complainant requested that the language of the proceeding be English for the following main reasons:

- (i) The disputed domain name consists of English words in the Latin script, instead of Chinese characters.
- (ii) The disputed domain name consists of the Complainant's well-known trademark which consists of letters of the English language.
- (iii) The disputed domain name resolves to a Godaddy (Dan.com) website in English, from which it can be inferred that the Respondent is familiar with the English language.
- (iv) Requiring the Complaint to be translated into Chinese would result in the proceedings being unduly delayed and the Complainant having to incur substantial expenses for translation.

The Respondent did not comment on the language of the proceeding.

Paragraph 11(a) of the Rules provides that:

"Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding."

Section 4.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)) states the following:

"Noting the aim of conducting the proceedings with due expedition, paragraph 10 of the UDRP Rules vests a panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case.

Against this background, panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement. Such scenarios include (i) evidence showing that the respondent can understand the language of the complaint, (ii) the language/script of the domain name particularly where the same as that of the complainant's mark, (iii) any content on the webpage under the disputed domain name, (iv) prior cases involving the respondent in a particular language, (v) prior correspondence between the parties, (vi) potential unfairness or unwarranted delay in ordering the complainant to translate the complaint, (vii) evidence of other respondent-controlled domain names registered, used, or corresponding to a particular language, (viii) in cases involving multiple domain names, the use of a particular language agreement for some (but not all) of the disputed domain names, (ix) currencies accepted on the webpage under the disputed domain name, or (x) other indicia tending to show that it would not be unfair to proceed in a language other than that of the registration agreement."

Having considered the relevant factors and interests of the respective Parties, the Panel determines that it would be appropriate for English be the language of the proceeding. The Panel is persuaded that the Respondent would not be prejudiced as he appears to be familiar with and understands the English language. The contents of the resolved webpage reflect words in English and notably, nothing in Chinese.

The Respondent had, moreover, been notified by the Center, in both Chinese and English, of the commencement of the proceeding, the language of the proceeding, and deadline for filing a Response in Chinese or English. The Respondent therefore had ample opportunity to object and/or propose to submit his Response in Chinese but did not do so. In the absence of any rebuttal argument or justification therefore by the Respondent, the Panel does not find any justification for requiring the Complainant to translate the Complaint into Chinese, which would be procedurally inefficient.

## **6.2 Substantive Issues**

### **A. Identical or Confusingly Similar**

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The Complainant has provided evidence that it owns the AMERICAN AIRLINES figurative and textual trademarks in multiple jurisdictions. The textual, and a prominent element of the said trademarks, AMERICAN AIRLINES, is reproduced entirely in the disputed domain name and is recognizable.

The disputed domain name comprises the Complainant's AMERICAN AIRLINES mark in its entirety with no other additions. Thus, the disputed domain name, which in this case incorporates the Complainant's mark in its entirety, is identical to the Complainant's mark.

Further, it is well established that the addition of a generic Top-Level Domain ("gTLD") ".online" is typically disregarded under the first element when considering the confusing similarity between the Complainant's trademark and the disputed domain name (see [WIPO Overview 3.0](#), section 1.11.1).

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is identical to a trademark in which the Complainant has rights.

### **B. Rights or Legitimate Interests**

Once the complainant establishes a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production of evidence shifts to the respondent to show that it has rights or legitimate interests in respect of the disputed domain name (see [WIPO Overview 3.0](#), section 2.1).

In the present case, the Complainant has furnished evidence that the Respondent is not commonly known by the name "American Airlines".

The Complainant has demonstrated *prima facie* case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the Respondent has failed to assert any such rights or legitimate interests.

The Complainant has provided evidence that it owns trademark registrations of the AMERICAN AIRLINES mark long before the date that the disputed domain name was registered and that the Complainant is not affiliated with nor has it licensed or otherwise authorized the Respondent to use the Complainant's trademark (see *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. [D2010-0138](#)).

The Respondent did not submit a Response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name which would be sufficient to rebut the Complainant's *prima facie* case.

In the particular circumstances of the present case, the Respondent's use of the disputed domain name to offer the said disputed domain name for sale does not represent a *bona fide* offering of goods or services. Such use of the disputed domain name cannot confer rights or legitimate interests on the Respondent.

The Panel is therefore of the view that the Respondent has no rights or legitimate interests in respect of the disputed domain name and accordingly, paragraph 4(a)(ii) of the Policy is satisfied.

### **C. Registered and Used in Bad Faith**

The complainant must also show that the respondent registered and is using the disputed domain name in bad faith (see Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant has submitted evidence that the Respondent registered the disputed domain name long after the Complainant registered its AMERICAN AIRLINES trademark. Given the accumulation of good will of the Complainant's mark over the course of its over 90-year history, and the similarity between the disputed domain name and the Complainant's domain name <americanairlines.com>, it is highly unlikely that the Respondent did not know of the Complainant and its AMERICAN AIRLINES mark prior to the registration of the disputed domain name.

Further, the disputed domain name redirects to a Dan.com webpage which lists the sale of the disputed domain name for the sum of USD 200. The Respondent has also listed the disputed domain name for sale on Afternic.com for the sum of USD 200. These present indications that the Respondent intended to register the disputed domain name for the sole purpose of selling it. Previous UDRP panels have held that the registration of a domain name for the sole purpose of selling it constitutes bad faith under paragraph 4(b)(i) of the Policy (see *Compagnie Générale des Etablissements Michelin v. Cameron Jackson*, WIPO Case No. [D2016-2392](#)).

In addition, the Respondent did not submit a Response in this proceeding. Under the circumstances of this case, this is an additional indication of the Respondent's bad faith, which was considered by the Panel.

Based on the evidence presented to the Panel, including the identity between the disputed domain name and the Complainant's marks, the fact that the disputed domain name was registered for the sole purpose of being sold, and the fact that no Response was submitted by the Respondent in response to the Complaint, the Panel draws the inference that the disputed domain name was registered and is being used in bad faith.

Accordingly, having regard to the circumstances of this particular case, the Panel finds that the Complainant has met its burden under paragraph 4(a)(iii) of the Policy.

### **7. Decision**

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

*/Jonathan Agmon/*

**Jonathan Agmon**

Sole Panelist

Date: October 18, 2023