

## **ADMINISTRATIVE PANEL DECISION**

American Airlines, Inc. v. Justin Case, Things for you inc.  
Case No. D2023-4670

### **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 Justin Case, Things for you inc., United States.

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

The disputed domain name <comamericanairlines.com> (“Domain Name”) is registered with Above.com Pty Ltd. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 10, 2023. On November 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 14, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name that differed from the named Respondent (above\_privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 14, 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 November 21, 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 November 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 12, 2023. The Respondent did not submit a response. Accordingly, the Center notified the Respondent’s default on December 13, 2023.

The Center appointed A. Justin Ourso III as the panelist in this matter on December 15, 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, an American corporation, has operated the well-known air carrier American Airlines since 1934 throughout the United States, and, later, internationally.

The Complainant owns a United States registration, No. 514,294, for its AMERICAN AIRLINES trademark, issued on August 23, 1949, with a first use in Class 39 in 1949 for “air transport of passengers and freight”; a United States registration, No. 5,279,167, for its AMERICAN AIRLINES trademark, issued on Sep 5, 2017, with a first use in Class 9 in 2010, for “computer application software” for mobile and other devices, “namely, for ticketing passengers, checking reservations, and checking flight status” and for “tracking and redeeming loyalty program awards” and a first use in Class 38 in 2009, for “providing Internet access”; and other registrations for its AMERICAN AIRLINES mark and other similar marks and figurative marks for these and other goods and services, including international registrations.

The Complainant is the registrant for the domain names <aa.com>, which it registered on January 2, 1998, and <americanairlines.com>, which consists of its AMERICAN AIRLINES trademark, and a generic Top-Level Domain, which it registered on April 17, 1998, and which redirects to <aa.com>, which resolves to a web site that the Complainant has operated since 1998.

The Respondent, Justin Case, Things for you inc., with a United States address, registered the Domain Name using a privacy service on September 11, 2023, without any authorization from the Complainant, and supplying false contact details. At the filing of the Complaint the Domain Name did not resolve to a web site offering *bona fide* goods or services, nor with any legitimate noncommercial or fair use content, but resolved to a parking page offering the Domain Name for sale. The Respondent has also offered the Domain Name for sale on a domain name marketplace web site for USD 499. During the preparation of this Decision an attempt to visit the web site to which the Domain Name resolves resulted in a browser warning that “your connection isn’t private” and that “Attackers might be trying to steal your information from” the site at the Domain Name.

#### **5. Parties’ Contentions**

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

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name. Notably, the Complainant contends that, in addition to the Domain Name resolving to a parked page offering the web site for sale, the Respondent also offered the Domain Name for sale on a domain name marketplace web site for USD 499; the Respondent supplied false contact information; the Domain Name’s incorporation of the Complainant’s well-known trademark gives rise to an inference of bad faith; and the Domain Name has active mail exchange (“MX”) records evidencing a likelihood of bad faith use for fraudulent e-mail or phishing communications.

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

The Respondent did not submit a response to the amended Complaint.

## 6. Discussion and Findings

A complainant must prove three elements to obtain relief: (i) the domain name is identical or confusingly similar to a trademark in which the complainant has rights; (ii) the respondent has no rights or legitimate interests in the domain name; and (iii) the respondent registered and is using the domain name in bad faith. Policy, paragraph 4(a).

### A. Identical or Confusingly Similar

On the first element, the Panel finds that the Domain Name <comamericanairlines.com> is confusingly similar to the Complainant's registered AMERICAN AIRLINES trademark. The trademark is readily recognizable within the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 1.7 and 1.8. Accordingly, the Panel concludes that the Complainant has proven the first element: the Domain Name is confusingly similar to a trademark in which it has rights.

### B. Rights or Legitimate Interests

The Respondent has not claimed the existence of any circumstance under the Policy, paragraph 4(c), that demonstrates that a respondent has rights to, or legitimate interests in, a domain name. The Complainant, on the other hand, has shown that it established its trademark rights before the Respondent registered the Domain Name, it has not authorized the Respondent to use its trademark, the record contains no evidence that the Respondent is commonly known by the Domain Name, and the Respondent is passively holding the Domain Name, which does not resolve to a functioning site, and which is not a *bona fide* commercial use, a noncommercial use, or a fair use of the Domain Name. These constitute *prima facie* a showing that the Respondent lacks any rights or legitimate interests in the Domain Name under the Policy, paragraph 4(a)(ii), shifting the burden of production on this second element to the Respondent to come forward with relevant evidence proving rights or legitimate interests in the Domain Name. [WIPO Overview 3.0](#), section 2.1. The Respondent has not submitted any evidence to rebut the *prima facie* showing.

Additionally, the Panel finds that the Respondent masked its identity by using a privacy service; the Registrar identified the Respondent as "Justin Case, Things for you inc.," which does not resemble the Domain Name, and provided an email address for the Respondent that does not resemble the Domain Name, which corroborate that the Respondent is not commonly known by the Domain Name; the Respondent provided an incorrect address to the Registrar; and the Respondent failed to provide any evidence of an actual or a planned *bona fide* commercial use, a noncommercial use, or a fair use of the Domain Name, or even to respond to the Complaint. Accordingly, the Panel concludes that the Complainant has proven the second element: the Respondent lacks rights or legitimate interests in the Domain Name.

### C. Registered and Used in Bad Faith

The Complainant has alleged that the Respondent is offering the Domain Name for sale on the web site to which the Domain Name resolves and that the Respondent has offered the Domain Name for sale on a domain name marketplace web site for USD 499. However, the record contains no evidence that the Respondent has attempted to sell the Domain Name to the Complainant or to a competitor of the Complainant for more than the Respondent's acquisition costs. [WIPO Overview 3.0](#), sections 3.1(i) and 3.1.1.

Panels have consistently found that the mere registration of a domain name that is confusingly similar to a well-known trademark can create a presumption of bad faith registration. [WIPO Overview 3.0](#), section 3.1.4. The Respondent here has not even attempted to rebut this presumption. The Complainant used and registered its well-known mark long before the Domain Name registration. Because of its fame, the Panel finds that the Respondent was aware of the Complainant's trademark and of the Complainant's rights in its mark when the Respondent registered the Domain Name, and that it chose the Domain Name deliberately. [WIPO Overview 3.0](#), section 3.2.2. Additionally, the Panel finds that no *bona fide* use of the Domain Name is

plausible and that the Respondent's failure to explain the Domain Name, coupled with an absence of rights or legitimate interests, tends to show bad faith. The failure to rebut the presumption and the additional findings compel the Panel to conclude that the Respondent intentionally registered the Domain Name in bad faith to take unfair advantage of the Complainant's trademark and that the Respondent is using the Domain Name in bad faith, in violation of the Policy. [WIPO Overview 3.0](#), sections 3.1, 3.1.3, 3.2.1, and 3.2.2.

The Domain Name does not resolve to an active, functioning web site. However, panels have consistently found that non-use of a domain name does not prevent a finding of bad faith, under the doctrine of passive holding, when other elements are present that demonstrate bad faith. [WIPO Overview 3.0](#), section 3.3. Here, the Complainant has also alleged that, notwithstanding a passive web site, the Respondent has configured MX records for the Domain Name, suggesting an intention to use the Domain Name for illegal purposes, such as fraud or phishing. Panels have consistently found that "given that the use of a domain name for per se illegitimate activity such as [...] phishing can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith." [WIPO Overview 3.0](#), sections 3.1.4 and 3.4.

The record contains no evidence of fraud or phishing, but the configuration of MX records presents the potential for an email scheme impersonating the Complainant. It is common knowledge that owners of web sites customarily use email addresses containing the domain name of a web site in electronic mail communications. The use of a domain name that is confusingly similar to a trademark in emails that do not originate with the trademark owner presents a risk to the reputation of a trademark and its owner. The Respondent has not rebutted that it is using the web site for email or that it intends to do so, which is noteworthy given the configuration of MX records for the Domain Name. The risk of deceptive emails is real and continuing, supporting the Panel's finding of bad faith registration and use. [WIPO Overview 3.0](#), sections 3.1.4 and 3.4.

Accordingly, the Panel concludes that the Complainant has proven the third element: the Respondent registered and is using the Domain Name in bad faith.

## **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 Domain Name, <comamericanairlines.com> be transferred to the Complainant.

*/A. Justin Ourso III/*

**A. Justin Ourso III**

Sole Panelist

Date: December 29, 2023