

ADMINISTRATIVE PANEL DECISION

American Airlines, Inc. v. Privacy Service Provided by Withheld for Privacy ehf / Deepak Singh
Case No. D2022-1757

1. The Parties

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

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Deepak Singh, India.

2. The Domain Name and Registrar

The disputed domain name <americanair-fly.com> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 13, 2022. On May 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 16, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on May 19, 2022, 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 May 20, 2022.

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 June 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 23, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 24, 2022.

The Center appointed Wolter Wefers Bettink as the sole panelist in this matter on July 4, 2022. 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 is one of the largest airlines in the world, based in the USA.

The Complainant is the owner of, *inter alia*, the following trade mark registrations (the "Trade Marks"):

United States word mark AMERICAN AIRLINES, registered under No. 0514294 on August 23, 1949;
United States word mark AMERICAN AIRLINES, registered under No. 1845693 on July 19, 1994;
United States word mark AMERICAN AIRLINES, registered under No. 4939082 on April 19, 2016;
United States word mark AMERICAN AIRLINES, registered under No. 5279167 on September 5, 2017;
United States mark AMERICAN (and design), registered under No. 5288639 on September 19, 2017;
India word mark AMERICAN AIRLINES, registered under No. 287052 on August 25, 1993.

The Domain Name was registered on March 21, 2022, and resolves to a website with, *inter alia*, the following text:

"American Airline Reservations - Official site| Flights| Booking
Get the weekend plans rolling with maximum discounts from American Airlines"

"Let The Journey Begin With American Airlines
So don't wait, start planning your holidays, make American airlines reservations today".

5. Parties' Contentions

A. Complainant

According to the Complainant, the Domain Name is confusingly similar to the Trade Marks, which are well-known, as it incorporates the Trade Marks in full, adding only the generic Top-Level domain ("gTLD") ".com" and the terms "air" and "fly" which both directly describe the Complainant's services and increase the likelihood of confusion based on the direct association of those words with the Complainant's services.

The Complainant contends that the Respondent lacks rights or legitimate interests in the Domain Name, as the Complainant did not authorize the Respondent to register the Domain Name incorporating the Trade Marks. The Complainant submits that the Respondent is not commonly known by the Domain Name and has not used or prepared to use the Domain Name in connection with a *bona fide* offering of goods or services. According to the Complainant the Respondent has never operated any *bona fide* or legitimate business under the Domain Name and has used the Domain Name to impersonate the Complainant and divert Internet traffic to a website prominently displaying the Trade Marks, as well as copyrighted photographs of airplanes, and offering competing travel bookings services for sale.

The Complainant submits that the Respondent registered the Domain Name in bad faith, as it is obvious that the Respondent at the time of registration of the Domain Name had actual knowledge of the Trade Marks, evidenced by its incorporation of the Trade Marks in the Domain Name as well as the display of the Trade Marks and copyrighted photographs on the website to which the Domain Name resolves. The Respondent's bad faith use of the Domain Name is evident, the Complainant submits, since it used the Domain Name to redirect Internet users to a website prominently displaying the Trade Marks, which is likely used to charge consumers for services they will never receive, overcharge consumers for services they can receive on the Complainant's websites, or to steal their personal or company information. Finally, the Complainant points out that the Respondent used a proxy service to register the Domain Name to shield its identity and elude

enforcement efforts by the legitimate trade mark owner, which demonstrates the Respondent's bad-faith use and registration of the Domain Name.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has shown that it has registered rights in the Trade Marks. The Domain Name is confusingly similar to the Trade Marks as it incorporates the AMERICAN Trade Mark in its entirety. The addition of the term "air", a hyphen and the term "fly" does not prevent a finding of confusing similarity between the Domain Name and the Trade Marks (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8; see also, *inter alia*, *TPI Holdings, Inc. v. Carmen Armengol*, WIPO Case No. [D2009-0361](#), and *F. Hoffmann-La Roche AG v. John Mercier*, WIPO Case No. [D2018-0980](#)). The gTLD ".com" is typically disregarded under the confusing similarity test, since it is a technical registration requirement (see [WIPO Overview 3.0](#), section 1.11.1). Therefore, the Panel finds that the Domain Name is confusingly similar to the Trade Marks in which the Complainant has rights.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, the second element a complainant has to prove is that a respondent lacks rights or legitimate interests in a domain name. This 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. In order to satisfy the second element, the Complainant has to make out a *prima facie* case that the Respondent does not have rights or legitimate interests in the Domain Name. If the Complainant succeeds in doing so, 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 (see [WIPO Overview 3.0](#), section 2.1).

Based on the evidence and the undisputed submissions of the Complainant, the Panel concludes that the Respondent has no connection or affiliation with the Complainant, the Respondent has not received the Complainant's consent to use the Trade Marks as part of the Domain Name, and the Respondent has not acquired any trade mark rights in the Domain Name. In assessing whether the Respondent has rights or legitimate interests in the Domain Name, it should also be taken into account that (i) since the Domain Name incorporates the AMERICAN Trade Mark in its entirety with terms referring to services provided by the Complainant, it carries a risk of implied affiliation ([WIPO Overview 3.0](#), section 2.5.1); and (ii) the Respondent has not provided any evidence, nor is there any indication in the record of this case, that the Respondent is commonly known by the Domain Name. Furthermore, in view of the fact that the Domain Name resolves to a website carrying the Trade Marks and containing text suggesting that it is from the Complainant, while providing competing services, the Respondent is not making a legitimate noncommercial or fair use of the Domain Name, nor does such use constitute a *bona fide* offering of goods or services.

In view of all of the above, the Panel concludes that the Complainant has established that the Respondent has no rights or legitimate interests in the Domain Name.

C. Registered and Used in Bad Faith

Based on the undisputed information and the evidence provided by the Complainant, the Panel finds that there is bad faith registration. At the time of registration of the Domain Name, the Respondent was aware of the Complainant and the Trade Marks, since:

- the Respondent's registration of the Domain Name occurred some 76 years after the registration of the earliest of the Trade Marks;
- the Respondent has incorporated AMERICAN, which is the dominant element of the Trade Marks, in its entirety;
- a simple trade mark register search, or even an Internet search, prior to registration of the Domain Name would have informed the Respondent of the existence of the Trade Marks; and
- the website to which the Domain Name resolves carries the Trade Marks and offers airline registration services.

With regard to bad faith use, the Panel finds that the following circumstances taken together warrant a finding of bad faith use of the Domain Name:

- the probability that the Respondent was aware of the Complainant's rights in the Trade Marks;
- the use of a privacy service to hide the identity of the Respondent;
- the lack of a Response to the Complaint; and
- the use of a website for the Domain Name, which contains the Trade Marks and text suggesting that it is from the Complainant, while providing competing services.

Therefore, the Panel concludes on the basis of all of the above circumstances, taken together, that the Domain Name has been registered and is being used 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 disputed domain name, <americanair-fly.com>, be transferred to the Complainant.

Wolter Wefers Bettink

Wolter Wefers Bettink

Sole Panelist

Date: July 18, 2022