

## **ADMINISTRATIVE PANEL DECISION**

American Airlines, Inc. v. Vinit Rajput  
Case No. D2022-4944

### **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 Vinit Rajput, India.

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

The disputed domain name <american-airline.shop> is registered with Sav.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 22, 2022. On December 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 23, 2022, 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 (PRIVACY PROTECTION.COM, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 27, 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 December 28, 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 January 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 1, 2023.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on February 8, 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. With its affiliates it serves destinations in over fifty countries, with nearly 7,000 daily flights.

The Complainant owns and operates the domain names <aa.com> and <americanairlines.com> (which redirects to <aa.com>) where its website is hosted, in addition to numerous other domain names incorporating the terms “american” and “american airlines”.

The Complainant has multiple trademark registrations in the United States including AMERICAN AIRLINES (Registration No. 0514294), registered on August 23, 1949; AMERICAN AIRLINES (Registration No. 1845693), registered on July 19, 1994; AMERICAN AIRLINES (Registration No. 4939082), registered on April 19, 2016; AMERICAN AIRLINES (Registration No. 5279167), registered on September 5, 2017; AMERICAN AIRLINES (Registration No. 5592865), registered on October 30, 2018; and AMERICAN AIRLINES (Registration No. 5573314), registered on October 2, 2018.

In addition to the United States registrations listed above, the Complainant has obtained trademark registrations incorporating its AMERICAN AIRLINES mark in over 75 countries, including India where the Respondent is located, being International Registration No. 1266184 for AMERICAN AIRLINES, registered on December 31, 2014; and India Registration No. 3669741 for AMERICAN AIRLINES, registered on November 3, 2017.

The disputed domain name was registered on October 5, 2022, and does not resolve to an active website.

#### **5. Parties' Contentions**

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

For decades, the Complainant says it has used and continues to use its name American Airlines (or AMERICAN) and numerous other trademarks and service marks including AA, AMERICAN, and AMERICAN AIRLINES, both alone and in connection with other words and designs. The Complainant says it has made significant investments worth billions of dollars in promotion of its trademarks. It points to the fact that according to the web analytics website SimilarWeb.com, its website has been ranked number one in the world in the category of air travel.

The Complainant points out that priority for the oldest registration for the AMERICAN AIRLINES mark dates back to 1948, decades before the Respondent registered the disputed domain name.

The Complainant also owns trademark registrations for its AMERICAN AIRLINES marks in India, where the Respondent is purportedly located. The Complainant asserts that previous UDRP panels have recognized that its AMERICAN AIRLINES and AMERICAN name and marks are well-known worldwide.

The Complainant points out that the disputed domain name incorporates the Complainant's AMERICAN AIRLINES mark in full, changing the mark only by removing the “s” and adding the generic Top-Level Domain (“gTLD”) “.shop”. It says that numerous UDRP panel decisions have found that when a disputed domain name entirely incorporates a complainant's mark, and contains misspelled and/or transposed letters, that is sufficient to establish confusing similarity, and the mere additions of a gTLD and other generic words to a complainant's mark fail to avoid confusing similarity.

The Complainant also says that without its authorization or consent, the Respondent registered the disputed domain name which it says misappropriates and is confusingly similar to its AMERICAN and AMERICAN AIRLINES marks. The Respondent is not commonly known by the disputed domain name, has not used or prepared to use it in connection with a *bona fide* offering of goods or services, and has not been authorized, licensed, or otherwise permitted by the Complainant to register and/or use the disputed domain name. The Complainant contends that while there is no real content posted at the website to which the disputed domain name resolves, the latter is still being passively held by the Respondent and contains the Complainant's mark. Passive holding of a domain name containing a well-known trademark does not constitute a *bona fide* or legitimate business use, the Complainant asserts. Furthermore, to the Complainant's knowledge, there are no prior trademark applications or registrations in the name of the Respondent for any mark incorporating the Complainant's marks anywhere in the world. The Respondent is thus not commonly known by the disputed domain name pursuant to Policy 4(c)(ii), and has no legitimate reason to use it.

The Complainant asserts that the Respondent has never operated any *bona fide* or legitimate business under the disputed domain name, and the Respondent's use of it does not constitute legitimate non-commercial or fair use. Instead, the Respondent is said to prevent the Complainant from registering or using the disputed domain name, and in any case, the Respondent's use of the disputed domain name can hardly be called fair or legitimate.

Further, the Complainant says that although the disputed domain name does not resolve to content, its passive holding demonstrates the Respondent's bad faith. The Complainant's marks are said to have a strong reputation and are substantially used worldwide. Because the disputed domain name does not publicly resolve to content but may allow authorized persons to view content, the possibility that the Registrant is in fact using it in bad faith with respect to those specifically authorized to view this content or in email addresses based on it is not to be ignored, the Complainant says.

Moreover, the mere fact that the Respondent has registered the disputed domain name incorporating the what it refers to as the famous marks AMERICAN and AMERICAN AIRLINES is, according to the Complainant, sufficient to give rise to an inference of bad faith. The Complainant points out that in very similar cases, previous UDRP panels have drawn an inference of "opportunistic" bad faith and cybersquatting when domain names entirely incorporated the marks of well-known airlines.

In addition to obvious actual and inferred knowledge of the Complainant's marks, the Respondent also had constructive knowledge of the AMERICAN and AMERICAN AIRLINES marks because of the Complainant's trademark registrations. The Complainant additionally points out that active mail exchange ("MX") records of the Respondent evidences a likelihood of additional bad-faith use to engage in fraudulent email or phishing communications.

Finally, the Complainant says that use of a privacy or proxy registration service to shield its identity and elude enforcement efforts by the legitimate trademark owner demonstrate the Respondent's bad-faith use and registration of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

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

The disputed domain name is not identical to the AMERICAN AIRLINES registered trademarks owned by the Complainant. However, that mark is included in the disputed domain name in its entirety and is clearly recognizable within it, which is sufficient to establish confusing similarity. The omission of the "s" from the

term “airlines”, the addition of a hyphen and of the gTLD “.shop” do not prevent a finding of confusing similarity between the disputed domain name and the Complainant’s trademark.

Therefore, the Panel holds that the disputed domain name is confusingly similar to the AMERICAN AIRLINES registered trademarks of the Complainant.

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

The Respondent has not reacted to any of the Complainant’s contentions. The Complainant did not authorize the Respondent to utilize its AMERICAN AIRLINES trademarks in any way and has no existing relationship with the latter. The Respondent is also not commonly known by the disputed domain name or some part of it.

The disputed domain name incorporates the Complainant’s factually distinctive trademark in its entirety with only a very minor few changes. Registering a domain name that includes a trademark that is very widely known and has worldwide goodwill attached to it, here relating to one of the biggest airline on the globe, is not likely to result in the acquisition of rights or interests, unless it is done with the approval of the mark’s owner. Passive holding also supplies no basis or evidence supporting the recognition of rights or legitimate interests. The fact that the MX records are active is suggestive of some nefarious plan to use the disputed domain name to the detriment of the Complainant and Internet users, not something that suggests a resulting entitlement to recognition of rights or legitimate interests.

Therefore, the Panel holds that the Respondent has no rights or legitimate interests in the disputed domain name.

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

The AMERICAN AIRLINES trademarks of the Complainant have been in long and very extensive use and benefits from a very widespread reputation in the airline sector. The Complainant is one of the largest airline in the world. It is highly improbable that the Respondent was not aware of the Complainant’s rights in its registered AMERICAN AIRLINES marks when registering the disputed domain name. The composition of the latter with its careful but minor amendments to the registered mark, speaks further to the fact that the Respondent was acting knowingly and intentionally to ride on the coattails of the Complainant’s reputation. The fact that the disputed domain name has been passively held does not mean the Respondent is not using the disputed domain name in bad faith. It is difficult to imagine any use of the disputed domain name, without the consent of the Complainant, that would not amount to a bad faith use. Quite obviously, the Complainant has never given any consent to the use of its AMERICAN AIRLINES mark by the Respondent.

Any deployment of the disputed domain name would almost inevitably deceive Internet users about the connection between the Respondent and the Complainant, which does not in fact exist in any way. The fact that the MX records are active is further suggestive of bad faith.

Therefore, the Panel holds that the disputed domain name was 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 <american-airline.shop> be transferred to the Complainant.

*/William A. Van Caenegem/*

**William A. Van Caenegem**

Sole Panelist

Date: February 22, 2023.