

ADMINISTRATIVE PANEL DECISION

American Airlines, Inc. v. xuan zhang
Case No. D2022-4951

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 xuan zhang, zhangxuan, China.

2. The Domain Name and Registrar

The disputed domain name <americanairlinens.com> (the “Disputed Domain Name”) is registered with CNOBIN Information Technology Limited (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 26, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on January 3, 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 January 3, 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 January 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 26, 2023.

The Center appointed Mariya Koval as the sole panelist in this matter on January 30, 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, founded in 1926, is the largest airline in the world and enjoys a reputation in the United States and internationally as a premier airline for business and leisure travelers. Prior to the Covid pandemic the Complainant and its regional partners and affiliates served over 350 destinations in over fifty countries, with nearly 7,000 daily flights. During its more than 90-year history, the Complainant has developed global name-recognition and goodwill, handling more than 200 million passengers annually with an average of more than 500,000 passengers daily. As of 2021, the Complainant employs 123,400 staff members. The Complainant also is a founding member of the Oneworld alliance, the third-largest airline alliance in the world.

The Complainant is the owner of numerous AMERICAN AIRLINES trademark (the AMERICAN AIRLINES Trademark) registrations in more than 75 countries throughout the world, among which are:

- United States Trademark Registration No. 514294, registered on August 23, 1949, in respect of services in class 39;
- United States Trademark Registration No. 1845693, registered on July 19, 1994, in respect of goods in class 25;
- Chinese Trademark Registration No. 616440, registered on October 30, 1992, in respect of services in class 39;
- International Registration No. 1266184, registered on December 31, 2014, in respect of services in classes 35, 37, 39.

The Complainant operates the domain names <aa.com> and <americanairlines.com> since 1998, in addition to numerous other domain names incorporating the AMERICAN AIRLINES Trademark, where the Complainant not only features general information about airlines and traveling, but also allows customers to book travel reservations around the world, view, change and cancel travel reservations, check in for flights, and view flights status. According to the web analytics website "www.similarweb.com", the Complainant's website "www.aa.com" has been ranked the number one website in the world in the category of "Air Travel". The Complainant is also very active on social media and has over 2.6 million followers on Facebook and 1.6 million followers of Twitter.

The Disputed Domain Name was registered on December 26, 2021. At the date of this decision, the website under the Disputed Domain Name is inactive. However, according to the evidence submitted with the Complaint (Annex 11 to the Complaint), the Disputed Domain Name previously resolved to a website that contained a message that it is encryption tested and if the users clicked the button "click here to enter" they were redirected to a gambling site.

5. Parties' Contentions

A. Complainant

The Complainant asserts that the Disputed Domain Name is confusingly similar to the Complainant's AMERICAN AIRLINES Trademark in which it has established rights. The Disputed Domain Name reproduces the AMERICAN AIRLINES Trademark in full, changing the Trademark only by adding the letter "n" in the word "airlines", and then the generic Top-Level Domain ("gTLD") ".com".

The Complainant claims that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name in view of the following:

- the Complainant has not authorized, licensed, or consented to the Respondent's registration and use of domain names incorporating the Complainant's AMERICAN AIRLINES Trademark, or any confusingly similar variation thereof;
- the Respondent is not commonly known by the Disputed Domain Name;
- the Respondent has never operated any *bona fide* or legitimate business under the Disputed Domain Name, and the Respondent's use of the Disputed Domain Name does not constitute a legitimate non-commercial or fair use. Instead, the Respondent is using the Disputed Domain Name to redirect Internet traffic to websites which in turn redirect to gambling websites.

The Complainant further asserts that the Respondent has registered and is using the Disputed Domain Name in bad faith. Long after the Complainant established its rights in its famous AMERICAN AIRLINES Trademarks, and with knowledge of those marks, the Respondent acquired the confusingly similar Disputed Domain Name to redirect Internet traffic to a gambling website.

The Respondent is using the confusingly similar Disputed Domain Name to intentionally attract Internet users to the Respondent's website, gambling websites, or affiliate advertising for the purposes of commercial gain, causing disruption of the Complainant's business, and creating a likelihood of confusion regarding source, sponsorship, affiliation, or endorsement.

The Complainant is not aware of any use of its AMERICAN AIRLINES Trademark in connection with air travel or air travel booking services, other than in connection with the Complainant. The Disputed Domain Name is so obviously connected with the Complainant and its services that its very use by someone with no connection to the Complainant suggests opportunistic bad faith.

The Respondent also used a proxy service to register the Disputed Domain Name. Use of a privacy or proxy registration service to shield its identity and elude enforcement efforts by the legitimate trademark owner demonstrates 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

Under paragraph 4(a) of the Policy, in order for the complainant to succeed it must satisfy the Panel that:

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

A. Identical or Confusingly Similar

The Complainant has properly asserted its rights in the AMERICAN AIRLINES Trademark due to the long use and registrations worldwide.

The Disputed Domain Name reproduces the Complainant's registered AMERICAN AIRLINES Trademark in its entirety with addition of the letter "n" to the word "airlines" and the gTLD ".com". The Disputed Domain Name is a plain example of "typosquatting" when the spelling of a trademark has been minimally changed by the addition of one letter. According to the section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), a domain name which consists of a common, obvious, or intentional misspelling of a trademark is normally considered by panels to be confusingly similar to the relevant mark for purposes of the first element.

It is also well established that the gTLD, in this case ".com", is disregarded for the purpose of determining identity or confusing similarity under the first element.

In light of the above, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's AMERICAN AIRLINES Trademark, and that the Complainant has established the first condition of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The Complainant alleges that the Respondent has no rights or legitimate interests in the Disputed Domain Name pursuant to paragraph 4(a)(ii) of the Policy.

In accordance with section 2.1 of the [WIPO Overview 3.0](#) while the overall burden of proof in UDRP proceedings is on the Complainant, the Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests. If such *prima facie* case is made, the burden of production shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name. If the Respondent fails to come forward with such relevant evidence, the Complainant is generally deemed to have satisfied the second element.

Taking into account the facts and arguments set out above, the Panel finds that the Complainant has made a *prima facie* case. The Respondent registered the Disputed Domain Name more than seventy years after the AMERICAN AIRLINES Trademark had been registered. There is no evidence that the Respondent owns any "American airlines" mark, nor that it is commonly known by the Disputed Domain Name. Moreover, the Respondent has failed to come forward with any evidence to rebut such *prima facie* case.

There is no evidence that the Respondent is commonly known by the Disputed Domain Name or any similar name. Furthermore, the Panel concludes that in view of the global fame of the AMERICAN AIRLINES Trademark it is highly unlikely that anybody could legitimately adopt the Disputed Domain Name for commercial use other than for an intent to create confusion with the Complainant.

Also, taking into consideration the reputation of the Complainant's AMERICAN AIRLINES Trademark, it is impossible to assume that the Respondent was unaware of the Complainant's brand and business at the time of registration of the Disputed Domain Name.

Furthermore, the Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name which previously redirected Internet traffic to a gambling website (Annex 11 to the Complaint). The Panel cannot consider such use of the Disputed Domain Name as *bona fide* offering goods or services, or a legitimate noncommercial or fair use. The fact the Disputed Domain Name currently resolves to an inactive site, in no way indicates that the Respondent may have rights or legitimate interests over said Disputed Domain Name.

Moreover, given the typosquatting nature of the Disputed Domain Name, the construction of the Disputed Domain Name is likely to mislead or cause confusion, which was likely the main intent of the Respondent when registering the Disputed Domain Name, which cannot amount to fair use nor confer rights or legitimate interests upon the Respondent.

Further, in this case, the Respondent, having a chance to invoke any circumstances for demonstration of his rights or legitimate interests in the Disputed Domain Name, did not submit any response to the Complaint and consequently did not rebut the Complainant's *prima facie* case.

In view of the foregoing, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and that the Complainant succeeds under the second element of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy indicates some circumstances, without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that you [respondent] 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.

Taking into consideration that the AMERICAN AIRLINES Trademark has been in use more than 70 years and that the Complainant has spent huge amounts and efforts for promotion of its AMERICAN AIRLINES Trademark, which is undoubtedly globally known, the Panel considers it is clear that the Respondent was well aware of the Complainant and its AMERICAN AIRLINES Trademark at the time of registration of the Disputed Domain Name. Moreover, the Disputed Domain Name, incorporating the Complainant's AMERICAN AIRLINES Trademark in its entirety, with the addition of the letter "n" to the word "airlines", is clearly deceptive for the Internet users with respect to the person rendering the services: entering the website under the Disputed Domain Name the Internet users will most likely believe that they are entering the website related to the Complainant's business.

The Panel therefore finds that, taking into consideration that the Complainant's well-known AMERICAN AIRLINES Trademark is incorporated in the Disputed Domain Name in its entirety, the Respondent has obviously registered and has used the Disputed Domain Name for the only purpose of attracting the Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's website, which, in its turn, previously redirected to the gambling website. Addition of one letter to the AMERICAN AIRLINES Trademark does not change an impression of strong association of the Disputed Domain Name with the Complainant's Trademark. Previous UDRP panels have concluded that in appropriate circumstances, bad faith is established where the Complainant's trademark has been well-known or in wide use at the time of registering a domain name, see, e.g., *CHANEL, INC. v. ESTCO TECHNOLOGY GROUP*, WIPO Case No. [D2000-0413](#).

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 Panel is of opinion that it is clear that the Respondent, having registered and used the Disputed Domain Name, which is confusingly similar to the well-known Complainant's Trademark, primarily intended to disrupt the Complainant's business. In view of the absence of any evidence to the contrary and that the Respondent did not file any statement, the Panel concludes that the Respondent has registered and is using the Disputed Domain Name in bad faith.

The fact that at the time of rendering of this decision the disputed domain name did not resolve to active website does not alter the Panel's findings (see section 3.3 of the [WIPO Overview 3.0](#)).

In view of the foregoing, the Panel finds that the paragraph 4(a)(iii) of the Policy has been satisfied by the Complainant and accordingly, the Disputed 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, <americanairlinens.com> be transferred to the Complainant.

/Mariya Koval/

Mariya Koval

Sole Panelist

Date: February 13, 2023