

## **ADMINISTRATIVE PANEL DECISION**

American Airlines, Inc. v. domain admin  
Case No. D2023-1680

### **1. The Parties**

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

The Respondent is domain admin, United States.

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

The disputed domain name <americnairlines.com> is registered with Key-Systems GmbH (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 17, 2023. On April 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 19, 2023, 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 (On behalf of americnairlines.com OWNER/ c/o whoisproxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 25, 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 April 28, 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 May 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 24, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 25, 2023.

The Center appointed Ezgi Baklacı Gülkökar as the sole panelist in this matter on June 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 an air carrier located in the United States. The Complainant is described as the largest air carrier in the world with an international reputation as the premier airline for business and leisure travel. The Complainant argues that prior to the Covid-19 pandemic the Complainant and its affiliates served over 350 destinations in over fifty countries and operated nearly 7,000 daily flights. It is further mentioned that the Complainant has used the AA abbreviation, AMERICAN and American Airlines marks alone or in combination with other words and designs in connection with travel and transportation services, travel agency services, travel reservation services, travel rewards loyalty programs, travel rewards credit cards and numerous other goods and services.

The Complainant also owns and operates the domain names <aa.com>, <americanairlines.com> and <americanair.com>, which redirects to <aa.com> where the Complainant's primary website is hosted, in addition to numerous other domain names incorporating the terms "American" and "American Airlines". The Complainant's website also features general information on travelling and allows customers to book travel reservations around the world, view change and cancel travel reservations check in for flights and view flight status. The Complainant refers to web analytics website to reveal that the Complainant's website has been ranked number one website in the world in the category of Air Travel with the provided Annex 7. The Complainant is said to also own numerous trademark registrations for its AMERICAN and AMERICAN AIRLINES marks with the United States Patent and Trademark Office ("USPTO") and has also obtained trademark registrations incorporating its AMERICAN AIRLINES mark in over 75 countries and in the United States where it is said the Respondent is based. The Complainant states further that priority for the oldest trademark registration for the AMERICAN AIRLINES mark No. 514294 dates back to July 27, 1948; before the Respondent decided to create the Disputed Domain Name.

The disputed domain name was registered on April 26, 2022. The Respondent is reportedly based in the United States. The disputed domain name resolves to a website featuring pay-per-click ("PPC") advertising webpages.

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

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

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Policy is satisfied in the present case, as follows:

##### *Identical or confusingly similar*

The Complainant argues that the disputed domain name is confusingly similar to AMERICAN AIRLINES mark in full, the sole difference being the switching of letters "a" and "c" in "American". The Complainant refers to a number of previous UDRP decisions to argue that misspelling as well as the addition of a generic Top-Level-Domain ("gTLD") to a complainant's mark does not prevent a confusing similarity finding for purposes of the Policy and such actions constitute "typo-squatting" and/or "mal-registration".

*Rights or legitimate interests*

The Complainant argues that the Respondent has no affiliation with the Complainant and the Complainant has not given the Respondent permission to register and/or use the Complainant's trademarks in any manner.

In addition, the Complainant argues that the Respondent is not known by the disputed domain name and the Complainant submits that the Respondent is not authorized to use the Complainant's trademark, nor the Respondent is the licensee of the mark.

Furthermore, the Respondent has neither made use of the domain name nor engaged in any demonstrable preparations to use it in connection with a *bona fide* offering of goods or services, instead the Respondent is using the disputed domain name to divert Internet traffic to websites that contain PPC or affiliate advertising income (demonstrated via Annex 11) for the Respondent's financial gain as demonstrative of bad faith registration and use under the Policy. This conduct it is said is causing disruption of the Complainant's business and creating a likelihood of confusion regarding source, sponsorship affiliation or endorsement. The Complainant further argues that such uses cannot be accepted within the scope of noncommercial or fair use.

*The disputed domain name was registered and used in bad faith*

The Complainant re-emphasizes the Respondent's exploitation of the disputed domain name acquired with prior knowledge of the Complainant's established rights to redirect Internet traffic to other websites garnering PPC or affiliate advertising income for the Respondent's financial gain as demonstrative of bad faith registration and use under the Policy. This conduct is said to cause disruption of the Complainant's business and creating a likelihood of confusion regarding source, sponsorship affiliation or endorsement.

The Complainant further asserts that mere fact of registration of the disputed domain name is alone sufficient to give rise to an inference of bad faith registration and use considering the extensive presence of the Complainant's AMERICAN mark all over the Internet, it is inconceivable that the Respondent did not have knowledge of the Complainant's mark before deciding to register the disputed domain name.

It is further argued by the Complainant that the disputed domain name has an active (MX) exchange record with the Annex 12, which is claimed to be evidence of a likelihood of use of fraudulent email or phishing communications.

The Complainant lastly argues that the Respondent has knowingly registered the disputed domain name in order to engage opportunistic cybersquatting and such passive behavior constitutes bad faith registration and use.

In summary, the Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for a transfer of the disputed domain name.

**B. Respondent**

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

**6. Discussion and Findings**

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to the trademarks or service marks in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (ii) the disputed domain name has been registered and is being used in bad faith.

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

The Complainant has demonstrated that it has well-established rights in the AMERICAN AIRLINES trademarks.

The disputed domain name <americnairlines.com> incorporates the Complainant's trademark with sole difference being the misspelling or transposition of the letters "a" and "c" in the "American" component of the Complainant's trademarks. This change does not prevent a finding of confusing similarity between the Domain Name and the trademark. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9. Therefore, the Panel accepts that this is an obvious case of typo-squatting.

For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel accepts that the gTLD may indeed be ignored. See [WIPO Overview 3.0](#), section 1.11.1.

The disputed domain name includes the almost identical term AMERICAN AIRLINES and in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will be considered confusingly similar (see [WIPO Overview 3.0](#), section 1.7).

In the light of the above, the Panel is of the view that the disputed domain name is confusingly similar to the Complainant's trademarks and the first element of paragraph 4(a) of the Policy is satisfied.

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

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name. While the overall burden of proof in UDRP proceedings is on the Complainant, previous UDRP panels have recognized that proving a respondent that it lacks rights or legitimate interests in a domain name 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. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, 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 ([WIPO Overview 3.0](#), section 2.1) (*Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Panel notes that the Respondent is indeed not commonly known by the disputed domain name. The Panel also notes that there is no evidence showing that the Respondent is authorized or licensed to use the Complainant's AMERICAN AIRLINES trademarks.

The case file also does not contain any evidence that the Respondent has been commonly known by the Disputed Domain Name as an individual, business, or other organization. Further, the Panel notes that there is no evidence of the Respondent's use of, or preparation to use the Disputed Domain Name; and there is also no evidence that the Respondent is making a legitimate noncommercial or fair use under the Disputed Domain Name.

On the contrary, what the evidence submitted by the Complainant establishes, is that the disputed domain name redirects Internet users and the Complainant's customers to websites that contain PPC links for the Respondent's financial gain. The Panel finds that such conduct cannot by any means be accepted as

legitimate noncommercial or fair use activity within the scope of the Policy.

Therefore, the Panel finds that the Respondent does not have any rights or legitimate interests in the Disputed Domain Name within the meaning of Policy, paragraph 4(a)(ii).

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

Paragraph 4(a)(iii) of the Policy provides that a complainant must demonstrate that the disputed domain name has been registered and is being used in bad faith. Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's trademark ([WIPO Overview 3.0](#), section 3.1).

The Panel finds that at the time the Disputed Domain Name was registered, the Respondent was clearly aware of the AMERICAN AIRLINES trademarks, as the Complainant's trademark registrations as well as its domain names predates the registration date of the Disputed Domain Name. The Panel notes from the Complaint and annexes, the extensive use and worldwide registrations of the AMERICAN AIRLINES trademark. According to the evidence submitted by the Complainant, the Panel finds that the Respondent knew or should have known about the Complainant's rights as such information can be reached by a quick online search; see *Compart AG v. Compart.com / Vertical Axis Inc.*, WIPO Case No. [D2009-0462](#).

In addition, previous UDRP panels have held that the mere registration of a domain name that is confusingly similar to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith ([WIPO Overview 3.0](#), section 3.1.4). The Disputed Domain Name is so obviously connected with the Complainant and its services that already its very use by the Respondent, which has no connection with the Complainant, clearly suggests the Disputed Domain Name has been selected with a deliberate intent to create an impression of an association with the Complainant (see *General Motors LLC v. desgate*, WIPO Case No. [D2012-0451](#)).

In addition, the Panel finds the fact that the Respondent intentionally divert Internet traffic to PPC sites for financial gain shows clear bad-faith. Furthermore, the existence of active mail exchange records (MX), further suggests that the Disputed Domain Name may have been used for fraudulent emails and/or phishing communications. See *Mpire Corporation v. Michael Frey*, WIPO Case No. [D2009-0258](#).

In light of these particular circumstances, the Panel concludes that the Complainant has succeeded in proving the requirement of paragraph 4(a)(iii) that the Disputed Domain Name has been registered and used in bad faith by the Respondent.

### **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 <americnairlines.com> be transferred to the Complainant.

*/Ezgi Baklacı Gülkökar/*

**Ezgi Baklacı Gülkökar**

Sole Panelist

Date: June 22, 2023