

ADMINISTRATIVE PANEL DECISION

American Airlines, Inc. v. Carolina Rodrigues, Fundación Comercio Electrónico
Case No. D2023-2345

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 Carolina Rodrigues, Fundación Comercio Electrónico, Panama.

2. The Domain Name and Registrar

The disputed domain name <americanairelines.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 6, 2023. On June 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 8, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 8, 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 June 12, 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 June 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 4, 2023.

The Center appointed Christian Gassauer-Fleissner as the sole panelist in this matter on July 7, 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 is the largest air carrier in the world and provides air transportation for business and leisure travelers. Prior to the COVID pandemic, the Complainant and its affiliates served over 350 destinations in over 50 countries, with nearly 7,000 daily flights.

The Complainant is the owner of several trademarks for AMERICAN AIRLINES (“AMERICAN AIRLINES trademark”), including:

- United States Trademark Registration AMERICAN AIRLINES No. 514294, registered on August 23, 1949;
- United States Trademark Registration AMERICAN AIRLINES No. 1845693, registered on July 19, 1994;
- United States Trademark Registration AMERICAN AIRLINES No. 4939082, registered on April 19, 2016;
- United States Trademark Registration AMERICAN AIRLINES No. 5279167, registered on September 5, 2017;
- United States Trademark Registration AMERICAN AIRLINES No. 5592865, registered on October 30, 2018;
- European Union Trademark Registration AMERICAN AIRLINES No. 000153726, registered on March 29, 1999; and
- China Trademark Registration AMERICAN AIRLINES No. 16090858, registered on March 7, 2016.

The Complainant is also the owner of numerous domain names including the AMERICAN AIRLINES trademark, such as the domain names <americanairlines.com> and <aa.com>.

The disputed domain name was registered on February 7, 2023. The Complainant has provided evidence showing that the disputed domain name resolved to a website containing advertising links that redirect to websites competing with the Complainant’s business. At the time of the decision, the disputed domain name does not resolve to any secure website.

5. Parties’ Contentions

A. Complainant

On the first element of the Policy, the Complainant claims that the disputed domain name is confusingly similar to the AMERICAN AIRLINES trademark. The disputed domain name includes the AMERICAN AIRLINES trademark, changing the mark only by switching the order of the letters “c” and “i” in “american”, adding a second “e” to “airlines”, and the generic Top-Level Domain (“gTLD”) “.com”. Further, numerous panels decisions have found that the mere additions of gTLD and domain names consisting of typos of famous marks to be “typo-squatting” or “mal-registrations” causing confusing similarity.

On the second element of the Policy, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not commonly known by the disputed domain name, has not used or prepared to use the disputed domain name 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 Respondent has never operated any *bona fide* or legitimate business under the disputed domain name and is not making noncommercial or fair use of the disputed domain name. Instead, the Respondent is using the disputed domain name to divert Internet traffic to websites that contain pay-per-click (PPC) or affiliate advertising links that redirect to websites that are competitive with the Complainant's activity.

On the third element of the Policy, the Complainant asserts that the Respondent registered and used the disputed domain name in bad faith. The Respondent acquired the disputed domain name to redirect Internet traffic to competitive travel websites garnering pay-per-click (PPC) or affiliate advertising revenue for the Respondent's commercial gain, long after the Complainant established its rights in its famous AMERICAN AIRLINES trademark, but with knowledge of those marks. Even the mere fact that the Respondent has registered the disputed domain name which incorporates the famous AMERICAN AIRLINES trademark of the largest airline in the world is alone sufficient to give rise to an inference of bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel's decision be made "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

It has been a consensus view in previous UDRP decisions that a respondent's default (*i.e.*, failure to submit a response) would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true (see section 4.3 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the Complaint, namely that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the 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 has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant, under the first requirement of paragraph 4(a)(i) of the Policy, needs to establish that the disputed domain name is identical or confusingly similar to a trademark or a service mark in which it has rights.

The Complainant is registered as the owner of several trademarks containing AMERICAN AIRLINES. Suitable evidence was submitted. Consequently, the Panel finds that the Complainant has proven that it has rights in the AMERICAN AIRLINES trademark.

The disputed domain name contains the AMERICAN AIRLINES trademark as well as the generic Top-Level Domain (“gTLD”) “.com”, changing the mark by switching the order of the letters “c” and “i” in “american” and further adding a second “e” to “airlines”, between the letters “e” and “i”.

Section 1.9 of [WIPO Overview 3.0](#) states: “A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.” Further, section 1.11.1 of [WIPO Overview 3.0](#) states: “The applicable TLD in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test”. The gTLD “.com” will therefore be discounted in the Panel’s consideration of confusing similarity.

The Panel finds that the relevant AMERICAN AIRLINES trademark within the disputed domain name is intentionally misspelled, but nonetheless recognizable.

For the reasons above, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademarks, and that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The second element the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Regarding the second element of the Policy, section 2.1 of [WIPO Overview 3.0](#) states, “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”. In this case, the Respondent did not reply to the Complainant’s contentions.

According to the Complaint, the Complainant has not authorized the Respondent to use the AMERICAN AIRLINES trademark, the Respondent is not commonly known by the disputed domain name, and the Respondent has not used the disputed domain name for a legitimate noncommercial or fair use, nor used it in connection with a *bona fide* offering of goods or services. Further, the Respondent has not attempted to justify why the disputed domain name was registered. Moreover, the Panel finds that the intentionally misspelled AMERICAN AIRLINES trademark within the disputed domain name, coupled with the use of the disputed domain name resolved to a website containing advertising links that redirect to websites competing with the Complainant’s business, affirms the Respondent’s intention of taking unfair advantage of the likelihood of confusion between the disputed domain name and the Complainant, as to the origin or affiliation of the website at the disputed domain name.

Accordingly, the Panel finds that the Complainant has made a *prima facie* showing of the Respondent’s lack of rights or legitimate interests in respect of the disputed domain name, which has not been rebutted by the Respondent. The Panel therefore finds that the Complainant has established the second element of the Policy in accordance with paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires that the Complainant demonstrate that the Respondent registered and is using the disputed domain name in bad faith. Section 3.1 of [WIPO Overview 3.0](#) states, “bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark”. Section 3.2.2 of the [WIPO Overview 3.0](#) reads: “Noting the near instantaneous and global reach of the Internet and search engines and particularly in circumstances where the complainant’s mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers),

panels have been prepared to infer that the respondent knew, or have found that the respondent should have known that its registration would be identical or confusingly similar to a complainant's mark.

Further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent's claim not to have been aware of the complainant's mark."

Considering the reputation and public presence of the Complainant, it is unlikely that the Respondent had no knowledge of the AMERICAN AIRLINES trademark. The intentionally misspelled AMERICAN AIRLINES trademark within the disputed domain name as well as the fact that the disputed domain resolved to a website containing advertising links that redirect to websites competing with the Complainant's business, demonstrates the Respondent's actual awareness of and intent to target the Complainant. In light of the lack of any rights to or legitimate interests in the disputed domain name by the Respondent and in the absence of any conceivable good faith use, the Panel finds from the present circumstances that the Respondent has intentionally attempted to attract Internet users to its website or affect the commercial activities of the Complainant by creating a likelihood of confusion with the Complainant's trademarks.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) of the Policy.

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 <amercianairlines.com> be transferred to the Complainant.

/Christian Gassauer-Fleissner/
Christian Gassauer-Fleissner
Sole Panelist
Date: July 18, 2023