

ADMINISTRATIVE PANEL DECISION

American Airlines, Inc. v. Hildegard Gruener
Case No. D2023-2732

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 Hildegard Gruener, Austria.

2. The Domain Names and Registrar

The disputed domain names <aa-boarding-pass.com> and <aa-check-in.com> are 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 26, 2023. On June 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 27, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names 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 July 17, 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 July 18, 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 July 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 25, 2023.

The Center appointed Andrew F. Christie as the sole panelist in this matter on September 18, 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 one of the largest air carriers in the world, with a reputation in the United States and internationally as a premier airline for business and leisure travelers. The Complainant and its affiliates serve over 360 destinations in nearly 50 countries, with nearly 7,000 daily flights. During its more than 90-year history, the Complainant has developed global name recognition and goodwill, largely through its investment in its brand and intellectual property.

The Complainant is the owner of numerous registrations in a range of countries, including in the European Union, for word and stylized trademarks consisting of or incorporating AMERICAN AIRLINES and/or AA, including EUTM Trademark Registration No. 008125379 for the figurative mark AA (registered on September 7, 2012). The Complainant owns and operates the domain names <aa.com> and <americanairlines.com>, both of which resolve to the Complainant's website at "www.aa.com". The Complainant's website not only features general information about the Complainant 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 flight status.

The disputed domain name <aa-boarding-pass.com> was registered on September 17, 2021, and the disputed domain name <aa-check-in.com> was registered on September 9, 2021. The Complainant has provided screenshots, taken on May 16, 2023, showing that each disputed domain name resolved to a website that contained the Complainant's name, and its AMERICAN AIRLINES and AA trademarks, and which purported to provide the ability to obtain a boarding pass or to check-in for flights operated by the Complainant. The Complainant has provided a screenshot, taken on May 16, 2023, of a third website that appears after clicking on one of the links on the websites resolving from the disputed domain names. This third website, at "www.automatic-check-in-service.net", contains what appear to be a number of pay-per-click (PPC) links.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

The Complainant made the following contention, among others, to establish that the disputed domain names are confusingly similar to a trademark in which the Complainant has rights. The disputed domain names incorporate the Complainant's AA trademark in full, adding to it only with hyphens and the terms "boarding" and "pass", or "check-in", all of which describe the Complainant's services involving issuing boarding passes for flights and the check-in process for flights.

The Complainant made the following contentions, among others, to establish that the Respondent has no rights or legitimate interests in respect of the disputed domain names. Without the Complainant's authorization or consent, the Respondent registered the disputed domain names, which misappropriate and are confusingly similar to the Complainant's AA trademark. The Respondent is not commonly known by the disputed domain names, has not used or prepared to use the disputed domain names 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 names. The Respondent is using the disputed domain names to divert Internet traffic to websites that prominently display the Complainant's trademarks,

appear to be affiliated with the Complainant, and purport to provide the ability for customers to obtain their boarding pass or to check-in for flights operated by the Complainant. When a person clicks on one of the links on these websites, they direct the person to “www.automatic-check-in-service.net”, which displays PPC or affiliate advertising links that redirect to websites that are in competition with the Complainant.

The Complainant made the following contentions, among others, to establish that the disputed domain names were registered and are being used in bad faith. The disputed domain names have been used to host websites passing themselves off as the Complainant’s website, to generate affiliate revenue. Long after the Complainant established its rights in its famous AA trademarks, and with knowledge of those trademarks, the Respondent acquired the confusingly similar disputed domain names to divert Internet traffic intended for the Complainant to websites featuring advertising for unrelated goods and services through an affiliate advertising program. The Respondent is intentionally attempting to attract Internet users to the Respondent’s websites for commercial gain, by creating a likelihood of confusion with the Complainant’s trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent’s websites. The Respondent had constructive knowledge of the Complainant’s AA trademarks because of the Complainant’s trademark registrations. The disputed domain names are so obviously connected with the Complainant and its services that their very use by someone with no connection to the Complainant suggests opportunistic bad faith. The Respondent has a pattern of prior bad faith registration of domain names utilizing well-known trademarks in which the Respondent has no rights or legitimate interests.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

Once the generic Top-Level Domain (“gTLD”) “.com” is ignored (which is appropriate in this case), the disputed domain names consist of the whole of the Complainant’s registered trademark AA, with the addition of the words “boarding-pass” in the first disputed domain name, and the word “check-in” in the second disputed domain name. The Complainant’s trademark is clearly recognizable within the disputed domain names. The additional terms, which describe services provided by the Complainant under its trademark, do not avoid a finding of confusing similarity of the disputed domain names with the Complainant’s trademark.

Accordingly, the Panel finds that each of the disputed domain names is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Respondent is not a licensee of the Complainant, is not otherwise affiliated with the Complainant, and has not been authorized by the Complainant to use its AA trademark. The Respondent has not provided any evidence that it has been commonly known by, or has made a *bona fide* use of, the disputed domain names, or that it has, for any other reason, rights or legitimate interests in the disputed domain names.

The evidence provided by the Complainant shows that the disputed domain names have been used to resolve to websites displaying the Complainant’s trademark, and offering services that relate to the business provided by the Complainant under its trademark. Given the confusing similarity of the disputed domain names to the Complainant’s trademark, the absence of any relationship between the Respondent and the Complainant, and the risk of implied false affiliation with the Complainant, the Respondent’s use of the disputed domain names is neither a *bona fide* use nor a legitimate noncommercial or fair use.

The Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names, and the Respondent has not rebutted this. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names.

C. Registered and Used in Bad Faith

The disputed domain names were registered many years after the Complainant registered its AA trademark. It is inconceivable that the Respondent registered the disputed domain names ignorant of the existence of the Complainant's trademark, given that the disputed domain names consist of the Complainant's trademark with the mere addition of terms describing services provided by the Complainant, and that the Respondent used the disputed domain names to resolve to websites displaying the Complainant's trademark and purporting to offer services provided by the Complainant. Given the Respondent's lack of rights or legitimate interests in the disputed domain names and the confusing similarity of the disputed domain names to the Complainant's trademark, any use of the disputed domain names by the Respondent almost certainly implies an affiliation with the Complainant that does not exist. The Respondent's registration of the disputed domain names in these circumstances is a bad faith registration.

Furthermore, the evidence on the record provided by the Complainant indicates that the Respondent has used the disputed domain names in an attempt to attract, almost certainly for commercial gain, Internet users to a website by creating confusion in the minds of the public as to an association between the website and the Complainant. The Respondent's use of the disputed domain names in this manner is a bad faith use.

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 names <aa-boarding-pass.com> and <aa-check-in.com> be transferred to the Complainant.

/Andrew F. Christie/

Andrew F. Christie

Sole Panelist

Date: October 2, 2023