

ADMINISTRATIVE PANEL DECISION

American Airlines, Inc. v. Milen Radumilo
Case No. D2023-2926

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 Milen Radumilo, Romania.

2. The Domain Name and Registrar

The disputed domain name <aaccargo.com> is registered with GreenZoneDomains Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 7, 2023. On July 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 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 (PERFECT PRIVACY, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 19, 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 20, 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 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 15, 2023.

The Center appointed Miguel B. O’Farrell as the sole panelist in this matter on August 17, 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 its affiliates it currently serves over 530 destinations in over fifty countries with nearly 7,000 daily flights worldwide.

During its more than 90 years history, it has used and continues to use the trademarks AMERICAN AIRLINES (abbreviated AMERICAN) and AA for which it owns a large number of trademark registrations worldwide, including the following:

- United States Trademark Registration No. No. 514,292 AA, registered on August 23, 1949 in class39;
- United States Trademark Registration No. 2,356,861 AA, registered on June 13, 2000, in class 28; and
- United States Trademark Registration No. 2,339,639 AA.COM, registered on April 11, 2000, in class39.

In addition, the Complainant owns and operates the domain names <aa.com> and <americanairlines.com> (which redirects to the Complainant's website "www.aa.com"). The Complainant's websites not only provide information about the Complainant's services but also allow customers to book travel reservations.

The Complainant, for over 75 years, has provided cargo services to major cities in the United States, Europe, Canada, the Caribbean countries, and is always adding new routes. The Complainant has a separate website created for its cargo business under the domain name <aacargo.com> which has been ranked the number two website in the world in the air travel category.

In 1998, the Complainant created its websites "www.aa.com" and "www.aacargo.com", which it has continuously used since that time.

The disputed domain name <aaccargo.com> was registered on May 9, 2023 and redirects to various third party websites very likely to obtain a commission through an affiliate advertising program.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain name is confusingly similar to its trademark AA in which the Complainant has rights and that the Respondent has no rights or legitimate interests in the disputed domain name, which was registered and is being used in bad faith.

More specifically, the Complainant has not authorized, licensed or consented to the Respondent's registration and use of the disputed domain name, which was registered decades after the Complainant registered and intensely used the AA and other trademarks mentioned above.

The Respondent is using the disputed domain name to generate revenue through the misdirection of Internet users.

The Respondent has also listed the disputed domain name for sale for USD 999 on Afternic, a domain name sales and auction platform, as shown in Annex 12 to the Complaint.

The Respondent is taking unfair advantage of the goodwill associated with the Complainant's AA trademark to divert Internet traffic intended for the Complainant to various third party websites featuring advertising for unrelated goods and services through an affiliate advertising program, for the purpose of obtaining commissions.

Finally, the Complainant has requested the Panel to issue a decision ordering the transfer of the disputed domain name to the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with 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 was registered and is being used in bad faith.

A. Identical or Confusingly Similar

As set forth in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain name is confusingly similar to the Complainant's AA trademark.

The disputed domain name incorporates the distinctive and well-known the Complainant's trademark AA in its entirety, with the addition of the term "ccargo" which does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark AA.

Section 1.8 of [WIPO Overview 3.0](#) provides that where the relevant trademark is recognizable within the disputed domain name – as it occurs in this case – the addition of other terms would not prevent a finding of confusing similarity under the first element.

The ".com" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

The Panel finds that the requirements of paragraph 4(a)(i) of the Policy have been fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following several circumstances which, without limitation, if found by the Panel, shall demonstrate that the respondent has rights to or legitimate interests in a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy.

- before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a *bona fide* offering of goods or services; or
- the respondent (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if the respondent has acquired no trademark or service mark rights; or
- the respondent is making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant has proved that it owns the AA trademark. There is no indication that it has licensed or otherwise permitted the Respondent to use any of its trademarks, nor permitted the Respondent to apply for or use any domain name incorporating its trademarks.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain name, enabling it to establish rights or legitimate interests therein. The name of the Respondent does not resemble the disputed domain name in any manner.

Furthermore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other element to prove that the Respondent has legitimate interests or that it has established rights in the disputed domain name.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been fulfilled.

C. Registered and Used in Bad Faith

The Panel is satisfied that the Respondent must have been aware of the Complainant's trademark AA mentioned in section 4 above (Factual Background) when it registered the disputed domain name on May 9, 2023. By that time, the Complainant had for many years ago registered and intensely used the well-known trademark AA.

By registering the disputed domain name including the Complainant's trademark AA in its entirety with the addition of the term "ccargo" the Respondent was targeting the Complainant and its business. The addition of the term "ccargo" which is a misspelling of the term "cargo" which directly describes the Complainant's air cargo services (resembling the Complainant's domain name) only contributes to confuse Internet users and lead them to think that the relevant website belongs to or is endorsed by the Complainant with the intention to capitalize on the fame of the Complainant's trademark for its own benefit.

The fact that there is a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name, the nature of the disputed domain name, and the redirecting the Internet users to various third party websites very likely to obtain a commission through an affiliate advertising program, are indicative of bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)). The Panel finds that the Respondent registered and is using the disputed domain name in bad faith.

For the above reasons, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy have been fulfilled.

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 <aaccargo.com> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: August 31, 2023