

## **ADMINISTRATIVE PANEL DECISION**

American Airlines, Inc. v. Carolina Rodrigues, Fundacion

Comercio Electronico

Case No. D2023-2928

### **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, Fundacion Comercio Electronico, Panama.

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

The disputed domain name <jobamericanairlines.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 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 11, 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 July 12, 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 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 10, 2023.

The Center appointed Tao Sun as the sole panelist in this matter on August 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 biggest airline companies in the world, which, together with 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.

The Complainant owns trademark registrations worldwide for AMERICAN AIRLINES. In particular, the Complainant is the owner of the following trademarks registered well before the registration of the disputed domain name:

- The United States trademark AMERICAN AIRLINES No. 0514294, registered on August 23, 1949, designating services in international class 39; and
- The United States trademark AMERICAN AIRLINES No.1845693, registered on July 19, 1994, designating goods in international class 25.

The Complainant is the owner of the domain name <americanairlines.com>, which was registered on April 17, 1998, and the domain name <aa.com>, which was registered on January 2, 1998. According to the statistic of 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 disputed domain name was registered on March 13, 2023. It is redirected to various third party websites. It is also listed on the Sedo.com for sale with the minimum price of USD 899.

According to the evidence provided by the Complainant, the Respondent has been involved in more than 200 UDRP cases, the vast majority of which concern the Respondent registering and using domain names incorporating famous and well-known marks (e.g., Ford, IBM, Geico, Old Navy, Gap, Discover Bank, NVIDIA, Priceline, Nestle, among others). The panels in those cases found that the Respondent did not have rights or legitimate interests and registered and used those domain names in bad faith, resulting in transfers or cancellations of the involved domain names.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant submits that the disputed domain name incorporates the Complainant's AMERICAN AIRLINES mark in full, changing the mark only adding the generic term "job" at the beginning, which directly describes the employment aspect of the Complainant's business, and then the generic Top-Level Domain ("gTLD") ".com". Therefore, the disputed domain name is confusingly similar to the Complainant's AMERICAN AIRLINES mark, and its domain name.

The Complainant asserts that 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. Therefore, the Respondent lacks rights or legitimate interests in the disputed domain name.

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith, since (1) the mere fact that the Respondent has registered the disputed domain name which

incorporates the famous AMERICAN AIRLINES marks of the largest airline in the world is alone sufficient to give rise to an inference of bad faith; (2) long after the Complainant established its rights in its famous AMERICAN AIRLINES marks, and with knowledge of those marks, the Respondent acquired the confusingly similar disputed domain name to divert Internet traffic intended for the Complainant to websites featuring advertising for unrelated goods and services through an affiliate advertising program; (3) the Respondent's pattern of prior bad faith registration of domain names utilizing well-known trademarks in which the Respondent has no rights or legitimate interests provides further evidence of the Respondent's bad faith registration and use of the disputed domain name in this case; and (4) the Respondent has also listed the disputed domain name for sale for USD 899 on the Sedo.com, a domain name and auction platform, which is clearly far in excess of the Respondent's investment in the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

- (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 Panel finds that the Complainant owns the trademark AMERICAN AIRLINES by registration. The disputed domain name contains the trademark AMERICAN AIRLINES, with the addition of the term "job" before the trademark. It has been widely recognized that "[W]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element". (See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8). In this case, the addition of the term "job" does not prevent a finding of confusing similarity.

The Panel therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

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

Though the Policy requires the Complainant to prove all three elements of paragraph 4(a) have been met, it nevertheless has been widely recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "providing negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, once the Complainant makes a *prima facie* case that the Respondent lacks rights or legitimate interests, the burden of production shifts to the Respondent to come forward with relevant evidence demonstrating rights and legitimate interests in the disputed domain name. If the Respondent fails to demonstrate rights or legitimate interests in the disputed domain name in accordance with paragraph 4(c) of the Policy or on any other basis, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy (see [WIPO Overview 3.0](#), section 2.1).

The Panel maintains that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name for the following reasons:

- (i) the Complainant asserts that the Respondent has not been authorized, licensed, or otherwise permitted by the Complainant to register and/or use the disputed domain name;
- (ii) there is no evidence showing that the Respondent is commonly known by or in any way associated with the disputed domain name;
- (iii) the fact that the disputed domain name is used to redirect Internet users to various third party websites for possible commercial gain would not support a claim to rights or legitimate interests (see [WIPO Overview 3.0](#), section 2.5.3).

Now the burden of production shifts to the Respondent, who however does not present any evidence of any rights or legitimate interests it may have in the disputed domain name and therefore fails to rebut the Complainant's *prima facie* case.

Moreover, the composition of the disputed domain name is inherently misleading as it effectively impersonates or suggests sponsorship or endorsement by the Complainant (see [WIPO Overview 3.0](#), section 2.5.1).

As such, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied in this case.

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

Paragraph 4(b) of the Policy provides that "[...] for the purposes of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular but without limitation, 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 [the Respondent has] registered or has 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 the Complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name; or
- (ii) that [the Respondent has] 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 [the Respondent has] engaged in a pattern of such conduct; or
- (iii) that [the Respondent has] registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the domain name, [the Respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the Respondent's] 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 [the Respondent's] website or location or of a product or service on [the Respondent's] website or location".

Panels have consistently found that mere registration of a domain name that is 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 (see [WIPO Overview 3.0](#), section 3.1.4). In this case, since the AMERICAN AIRLINES mark is famous, the Panel finds that the Respondent likely knew of the Complainant and deliberately registered the disputed domain name in bad faith.

The evidence shows that the disputed domain name redirects Internet traffic to various websites, which suggests that the disputed domain name is used for commercial gain of the Respondent and/or of the operators of those linked third party websites. Considering the famous status of the Complainant's AMERICAN AIRLINES mark, the Panel contends that the Respondent has intentionally attempted to attract

Internet users for commercial gain by creating a likelihood of confusion with the Complainant's AMERICAN AIRLINES trademark (see [WIPO Overview 3.0](#), section 3.1.4).

The evidence also demonstrates that the Respondent has been involved in more than 200 UDRP cases, the majority of which concern the Respondent registering and using the domain names incorporating famous and well-known marks such as Ford, IBM, Geico, Old Navy, Gap, Discover Bank, NVIDIA, Priceline, Nestle, etc. In most of these cases, the Respondent was found registering and using the domain names in bad faith, resulting in transfers or cancellations of the involved domain names. In view thereof, the Panel concludes that the Respondent has been engaged in a pattern of conduct of preventing a trademark holder from reflecting its mark in a domain name (see [WIPO Overview 3.0](#), section 3.1.2).

The Respondent's concealment of its identity by using a proxy service, putting the disputed domain name for sale on the Sedo.com for a price which is likely in excess of the Respondent's out-of-pocket costs, and the Respondent's failure to file a response also support the finding of bad faith.

The Panel therefore concludes that the requirement of paragraph 4(a)(iii) of the Policy is also satisfied in this case.

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

*/Tao Sun/*

**Tao Sun**

Sole Panelist

Date: August 30, 2023