

ADMINISTRATIVE PANEL DECISION

American Airlines, Inc. v. Yanick Elangwe
Case No. D2023-3034

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 Yanick Elangwe, Cameroon.

2. The Domain Name and Registrar

The disputed domain name <americanairlinesexpress.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 14, 2023. On July 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 18, 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 (REDACTED FOR PRIVACY) 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 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 17, 2023.

The Center appointed Alissia Shchichka as the sole panelist in this matter on August 28, 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. The Complainant and its affiliates serve over 360 destinations in nearly fifty countries, with nearly 7,000 daily flights.

The Complainant owns multiple trademarks for AMERICAN AIRLINES (“AMERICAN AIRLINES trademark”), including:

- European Union trademark AMERICAN AIRLINES, registration no. 000153726, March 29, 1999;
- United States trademark AMERICAN AIRLINES, registration no. 514294, August 23, 1949; and
- International trademark AMERICAN AIRLINES, registration no. 1330416, December 9, 2016.

The Complainant is also the owner of multiple domain names, including <americanairlines.com> and <aa.com>, which it has continuously used in commerce since 1998.

The above trademarks and domain names were registered prior to the registration of the disputed domain name <americanairlinesexpress.com>, which was registered on May 26, 2023.

The Complainant has provided evidence indicating that the disputed domain name resolved to a website featuring a basic WordPress blog template with the caption “Mindblown: a blog about philosophy”, but without any content.

At the time of the decision, the disputed domain name does not resolve to an active website.

5. Parties' Contentions

A. Complainant

In summary, the Complainant made the following submissions:

The Complainant submits that the disputed domain name is confusingly similar to the Complainant's well-known AMERICAN AIRLINES trademark, emphasizing that the Complainant is the largest air carrier in the world and recognized internationally as a premier airline for both business and leisure travelers.

The Complainant represents that in addition to common law rights it holds numerous trademark registrations for its AMERICAN AIRLINES trademarks, used in commerce since as early as April 1934.

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 adding the generic term “express”, which directly describes the numerous express (or direct) flights the Complainant offers, and the generic Top-Level Domain (“gTLD”) “.com”, causing confusing similarity.

The Complainant asserts that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, the Respondent, without the Complainant's authorization or consent, has wrongfully appropriated the Complainant's AMERICAN AIRLINES trademark.

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 Complainant further submits that there is no substantive content posted on the disputed domain name, which is essentially being passively held by the Respondent.

The Complainant accordingly concludes that passive holding of a domain name containing a well-known trademark does not constitute a *bona fide* or legitimate business use of the disputed domain name.

The Complainant asserts that the disputed domain name was registered by the Respondent in bad faith and is being used in bad faith. The Complainant notes that even if the disputed domain name does not resolve to any active content, the Respondent's passive holding of the disputed domain name alone is sufficient to establish the Respondent's bad faith. This is particularly true in circumstances where, as in this case, the Respondent had prior knowledge of the Complainant's rights to the well-known AMERICAN AIRLINES trademark.

Furthermore, the Complainant claims that the disputed domain name has active MX (mail exchange) records, which indicate a likelihood of additional bad-faith use of the disputed domain name for fraudulent email or phishing communications.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant carries the burden of proving:

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

The Respondent's default in the case at hand does not automatically result in a decision in favor of the Complainant, however, paragraph 5(f) of the Rules provides that if the Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint.

Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from the Respondent's failure to submit a Response as it considers appropriate.

A. Identical or Confusingly Similar

The first element that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, trademark rights of the Complainant.

There are two parts to this inquiry: the Complainant must demonstrate that it has rights in a trademark at the date the Complaint was filed and, if so, the disputed domain name must be shown to be identical or confusingly similar to that trademark.

The Complainant is the owner of several trademarks for and including AMERICAN AIRLINES, for which suitable evidence was submitted. Consequently, the Panel finds that the Complainant has established its rights in the AMERICAN AIRLINES trademark.

The disputed domain name contains the AMERICAN AIRLINES trademark followed by the additional term "express", and the gTLD ".com".

The Complainant's AMERICAN AIRLINES trademark is clearly recognizable in the disputed domain name. The inclusion in the disputed domain name of the term "express" immediately following the Complainant's AMERICAN AIRLINE trademark does not prevent a finding of confusing similarity.

Section 1.8 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states: "Where 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.”

Further, according to sections 1.11.1 and 1.11.2 of [WIPO Overview 3.0](#), the Top-Level Domains (“TLDs”) generally are disregarded when evaluating the identity or confusing similarity of the Complainant’s mark to the disputed domain name under paragraph 4(a)(i) of the Policy, irrespective of any ordinary meaning that might be ascribed to the TLD.

For the reasons above, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s AMERICAN AIRLINES trademark, 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”.

Once this burden is met, the burden of production shifts to the Respondent to demonstrate its rights or legitimate interests in the disputed domain name (though the burden of proof remains on the Complainant at all times).

If the Respondent does not satisfy its burden of coming forward with some evidence to rebut the Complainant’s *prima facie* case, or if the Respondent fails to file a response at all, the Complainant’s *prima facie* case will be sufficient to meet its burden of demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name. See *id.*

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.

The Respondent has failed to produce any evidence to establish his rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Complainant has made a *prima facie* case by 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”.

Further, 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."

Considering the reputation and public presence of the Complainant, it is unlikely that the Respondent had no knowledge of the AMERICAN AIRLINES trademark when registering the disputed domain name.

As to the use of the disputed domain name, the Panel notes that, as mentioned above, at the time the Complaint was filed, the disputed domain name redirected to a website featuring a basic WordPress blog template with the caption "Mindblown: a blog about philosophy", but without any content.

At the present time, the disputed domain name does not resolve to an active website. As indicated in section 3.3 of the [WIPO Overview 3.0](#), "From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or 'coming soon' page) would not prevent a finding of bad faith under the doctrine of passive holding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put".

In the case at hand, in view of i) the Respondent's failure to submit a Response and to provide any evidence of good-faith use; and ii) the implausibility of any good faith use to which the disputed domain name, incorporating the entirety of the Complainant's trademark, may be put, the Panel finds that the Respondent's passive holding of the disputed domain name does not prevent a finding of bad faith.

Therefore, the Panel finds that the Complainant has also proven that the Respondent registered and is using the disputed domain name in bad faith according to 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, <americanairlinesexpress.com> be transferred to the Complainant.

/Alissia Shchichka/

Alissia Shchichka

Sole Panelist

Date: September 6, 2023