

ADMINISTRATIVE PANEL DECISION

American Airlines, Inc. v. Carolina Rodrigues,
Fundacion Comercio Electronico
Case No. D2023-3270

1. The Parties

The Complainant is American Airlines, Inc., United States of America (“United States” or “US”), 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 <americanairlinesfcu.com> (“Disputed Domain Name”) 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 29, 2023. On July 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 1, 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 August 4, 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 August 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 August 21, 2023. In accordance with the Rules, paragraph 5, the due date for the Response was September 10, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 11, 2023.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on September 14, 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 an air carrier company operating internationally for business and leisure travelers and serving over 350 destinations in over 50 countries. The Complainant has also been providing credit union services to current and retired employees under its not-for-profit financial cooperative American Airlines Federal Credit Union (the “Complainant’s FCU Business”) since 1936. The Complainant has been using its current company name American Airlines for several decades. The Complainant owns various word and figurative trademarks for or containing “AMERICAN AIRLINES” (the “Complainant’s Trademark”) around the globe.

The relevant trademark registrations include, *inter alia*, US Trademark Registration No. 514294 for the mark **AMERICAN AIRLINES** registered on August 23, 1949 in Class 39, US Trademark Registration No. 1845693 for the mark **AmericanAirlines** registered on July 19, 1994 in Class 25, US Trademark Registration No. 4939082 for the mark AMERICAN AIRLINES registered on April 19, 2016 in Classes 35, 37, 39, 41 and 43, US Trademark Registration No. 5279167 for the mark AMERICAN AIRLINES registered on September 5, 2017 in Classes 9 and 38, US Trademark Registration No. 5592865 for the mark AMERICAN AIRLINES registered on October 30, 2018 in Class 36, US Trademark Registration No. 5573314 for the mark AMERICAN AIRLINES registered on October 2, 2018 in Classes 25, 28 and 36, and US Trademark Registration No. 2728688 for the mark **AMERICAN AIRLINES FEDERAL CREDIT UNION** registered on June 24, 2003 in Class 36. According to the Complainant, it also holds Panama Trademark Registration No. 237643-01 for the mark AMERICAN AIRLINES registered on January 12, 2015 and Panama Trademark Registration No. 53214 for the mark AMERICAN AIRLINES registered on May 27, 1991 (class(es) unidentified), where the Respondent is apparently located.

The Complainant’s Trademark is fully incorporated in the Complainant’s domain name <americanairlines.com> (the “Complainant’s Domain Name”), which redirects to the Complainant’s website at “www.aa.com”.

The Disputed Domain Name was registered on April 13, 2018. At the time of filing of the Complaint, the Disputed Domain Name redirected to a rotation of websites including the website distributing malware, and the website comprising pay-per-click (“PPC”) advertising links to “Home Mortgage Loans”, “Fcu Federal Credit Union”, and “Home Loan Mortgage”. At the date of this decision, the Panel notes that the Disputed Domain Name resolves to a webpage comprising PPC advertising links to “Home Banking Online”, “Credit Card FCU” and “Best Credit Card Consolidation Loans” with the browser tab labelling the website as “not secure” (the “Respondent’s Website”).

5. Parties’ Contentions

A. Complainant

- (a) The Disputed Domain Name is confusingly similar to the Complainant’s Trademark. The Complainant’s Trademark is reproduced in its entirety in the Disputed Domain Name. Apart from the Complainant’s Trademark, the remaining element in the Disputed Domain Name is the letters “fcu”, which is an abbreviation for “federal credit union” and directly describes the Complainant’s FCU Business.

- (b) The Respondent has no rights or legitimate interests in the Disputed Domain Name. The Respondent has not obtained any authorization from the Complainant to use the Complainant's Trademark as part of a domain name or otherwise. The Respondent is not known by the Disputed Domain Name. Moreover, the Respondent's Website is being used to divert Internet traffic to fraudulent websites distributing malware or PPC websites that compete with the Complainant's FCU Business. This does not constitute a *bona fide* offering of goods or services or legitimate or fair use of the Disputed Domain Name.
- (c) Both the Respondent's registration and use of the Disputed Domain Name establish the Respondent's bad faith. The Respondent's use of the Disputed Domain Name demonstrates bad faith where links distributing malware and PPC links on the Respondent's Website compete with or capitalize on the reputation and goodwill of the Complainant's Trademark or otherwise mislead Internet users. Given the history of the AMERICAN AIRLINES brand and reputation that the Complainant has acquired in the Complainant's Trademark, the Respondent must have been fully aware of the existence and at least constructively aware of the Complainant's rights in the Complainant's Trademark when the Respondent registered and used the Disputed Domain Name. Moreover, the Respondent has been party to more than 200 previous UDRP domain name disputes. The Respondent has also listed the Disputed Domain Name for sale for US 899 on a domain name sales and auction platform to generate financial gain. Lastly, the Respondent used a proxy service to mask its identity. Therefore, the Respondent has registered and used the Disputed Domain Name in bad faith.

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 is required to prove each of the following three elements:

- (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 by the Respondent in bad faith.

A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the Complainant's Trademark, based on its various trademark registrations such as those listed in Section 4.

The Disputed Domain Name incorporates the Complainant's Trademark in its entirety with the addition of the letters "fcu". UDRP panels have consistently found that the addition of other terms to a mark (whether descriptive, geographical, pejorative, meaningless, or otherwise) will not prevent a finding of confusing similarity under the first element. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). The Panel therefore agrees with the Complainant that the additional letters do not prevent a finding of confusing similarity between the Disputed Domain Name and the Complainant's Trademark.

As such, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's Trademark, and accordingly, paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

The Panel accepts that the Complainant has not authorized the Respondent to use the Complainant's Trademark. There is no relationship between the Complainant and the Respondent, which would otherwise entitle the Respondent to use the Complainant's Trademark. Accordingly, the Panel is of the view that a *prima facie* case has been established by the Complainant and it is for the Respondent to show rights or legitimate interests in the Disputed Domain Name.

Once a complainant establishes a *prima facie* case in respect of the lack of rights or legitimate interests of a respondent in a disputed domain name, the respondent then carries the burden of demonstrating that it has rights or legitimate interests in the disputed domain name. Where the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent did not submit any Response. The fact that the Respondent did not submit any Response does not automatically result in a decision in favor of the Complainant. However, the Respondent's failure to file a Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complainant as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#); and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the Disputed Domain Name by demonstrating any of the following:

- (i) before any notice to the Respondent of the dispute, the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or name corresponding to the Disputed Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent has been commonly known by the Disputed Domain Name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate non-commercial 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 Panel agrees with the Complainant that there is no evidence to show that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent has become known by the Disputed Domain Name.

There is no evidence to suggest that the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or name corresponding to the Disputed Domain Name, is in connection with a *bona fide* offering of goods or services or be regarded as legitimate noncommercial or fair use. UDRP panels have categorically held that illegal activity, such as distributing malware as the case here, can never confer rights or legitimate interests on a Respondent. See section 2.13 of the [WIPO Overview 3.0](#). The PPC links on the Respondent's Website also do not represent a *bona fide* offering since such links are being used to compete with or capitalize on the reputation and goodwill of the Complainant's Trademark or otherwise mislead Internet users. See section 2.9 of the [WIPO Overview 3.0](#).

Moreover, the composition of the Disputed Domain Name, which incorporates the Complainant's Trademark with the letters "fcu" (an abbreviation of "Federal Credit Union") associating with the Complainant's FCU Business, carries a risk of implied affiliation as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Disputed Domain Name incorporates the Complainant's Trademark followed by the letters "fcu". A quick Internet search conducted by the Panel shows that the top search results returned for the keyword "AMERICAN AIRLINES" relate to the Complainant's services and/or third party websites providing information relating to the Complainant's services. Therefore, the Panel agrees with the Complainant that the Respondent must have been aware of the Complainant and its rights in the Complainant's Trademark when registering and using the Disputed Domain Name. This is confirmed by the fact that "fcu" added to the Complainant's Trademark is related to the Complainant's FCU Business.

In addition, the Panel finds that the following factors support a finding that the Disputed Domain Name was registered and has been used by the Respondent in bad faith:

- (i) The Respondent's Website had previously displayed links distributing malware which is an illegal activity. Such use is manifestly considered evidence of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).
- (ii) It is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that the Disputed Domain Name is confusingly similar to the Complainant's Trademark. It can be inferred that the Respondent used the Disputed Domain Name to earn click through revenue from the misdirection of Internet users to the Respondent's Website caused by the confusing similarity of the Disputed Domain Name to the Complainant's Trademark (see *Société Louis Delhaize Financière et de Participation (DELFI PAR) v. Privacy service provided by Withheld for Privacy ehf /Vallee Virginie*, WIPO Case No. [D2021-4126](#)). Such circumstances are evidence of registration and use of the Disputed Domain Name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy. Also, as discussed above, the Respondent lacks rights or legitimate interests in the Disputed Domain Name (see *Washington Mutual, Inc. v. Ashley Khong*, WIPO Case No. [D2005-0740](#)).
- (iii) The Respondent's offer to sell the Disputed Domain Name for USD 899 is likely more than its out-of-pocket costs in connection with the Disputed Domain Name. Considering the use to which the Disputed Domain Name is put and the confusingly similarity with the Complainant's Trademark, the Panel finds the Respondent's offer to be another indication of bad faith. See section 3.1.1 of the [WIPO Overview 3.0](#).
- (iv) The Respondent has a history of cybersquatting. In *Carvana, LLC v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2023-1274](#), the panel found that the Respondent has demonstrated "a clear pattern of targeting trademarks". Since 2012, transfer has been ordered against the Respondent in hundreds of other UDRP proceedings, indicating the Respondent's pattern of bad faith.
- (v) The Respondent registered the Disputed Domain Name using a privacy shield to conceal its identity (see *Primonial v. Domain Administrator, <PrivacyGuardian.org> / Parla Turkmenoglu*, WIPO Case No. [D2019-0193](#)).
- (vi) The Respondent failed to respond to the Complainant's contentions and has provided no evidence of its actual or contemplated good faith use of the Disputed Domain Name.

In the circumstances, the Panel finds that the Respondent registered and has been using the Disputed Domain Name in bad faith, and paragraph 4(a)(iii) of the Policy has been satisfied.

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 <americanairlinesfcu.com> be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: September 28, 2023