

ADMINISTRATIVE PANEL DECISION

American Airlines, Inc. v. TIMOTHY bliler
Case No. D2023-3596

1. The Parties

Complainant is American Airlines, Inc., United States of America (“U.S.”), represented by Greenberg Traurig, LLP, U.S.

Respondent is TIMOTHY bliler, U.S.

2. The Domain Name and Registrar

The disputed domain name <americanairlinesairporttransportation.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 25, 2023. On August 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 28, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (Redacted for Privacy, Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 29, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on August 30, 2023.

The Center verified that the Complaint 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 Respondent of the Complaint, and the proceedings commenced on September 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 24, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 27, 2023.

The Center appointed Jeffrey D. Steinhardt as sole panelist in this matter on October 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

Complainant is a world-famous commercial airline. Complainant owns numerous registrations for its family of AMERICAN AIRLINES service marks, including for example U.S. Trademark Registration No. 0514294, registered on August 23, 1949, in International Class 39 with a first use in commerce date of April 1934.

The disputed domain name was registered on July 21, 2021 and resolves to a webpage that imitates Complainant's website style and reproduces Complainant's trademarks. The disputed domain name displays Complainant's trademark as well as purportedly offering similar services to Complainant and displaying an online form for Internet users to complete to request ground transportation services.

5. Parties' Contentions

A. Complainant

Complainant avers that it is a world-class premier airline which, along with its affiliates, serves over 350 destinations in over fifty countries, with nearly 7,000 flights daily. Complainant avers that the website to which the disputed domain name resolves impersonates Complainant's official websites without authorization and purports to offer American Airlines-sponsored transportation. Complainant provides evidence that the disputed domain name has an active Mail-exchanges ("MX records") configuration which may permit the disputed domain name to be used for fraudulent email communications and potentially steal personal data of Internet users.

Summarizing its legal contentions, Complainant alleges that (1) the disputed domain name is confusingly similar to Complainant's AMERICAN AIRLINES trademarks, (2) Respondent has no rights or legitimate interests in the disputed domain name, and (3) the disputed domain name was registered and is being used in bad faith, all in violation of the Policy. On this basis, Complainant seeks transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

For Complainant to prevail under the Policy, it must be established that (1) the disputed domain name is identical or confusingly similar to Complainant's AMERICAN AIRLINES trademarks, (2) Respondent has no rights or legitimate interests in the disputed domain name, and (3) the disputed domain name was registered and is being used in bad faith. Policy, paragraph 4(a).

The fact that Respondent has not provided any Response does not, by itself, mean that Complainant prevails. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3. In the absence of a Response, however, the Panel may also accept as true reasonable factual allegations in the Complaint. See, e.g., *ThyssenKrupp USA, Inc. v. Richard Giardini*, WIPO Case No. [D2001-1425](#) (citing *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#)).

A. Identical or Confusingly Similar

The Panel agrees with Complainant's allegation that the disputed domain name is confusingly similar to Complainant's AMERICAN AIRLINES mark.

UDRP panels commonly disregard Top-Level Domains ("TLDs") in determining whether a disputed domain name is identical or confusingly similar to a complainant's marks. [WIPO Overview 3.0](#), section 1.11.1.

Omitting the ".com" TLD, the Panel notes that Complainant's entire AMERICAN AIRLINES mark is included in the disputed domain name, adding only the terms "airline" and "transportation." The Panel finds that these additions to Complainant's mark do not prevent a finding of confusing similarity. [WIPO Overview 3.0](#), section 1.7 (where a domain name incorporates the entirety of a trademark, the domain name will normally be considered by UDRP panels to be confusingly similar); [WIPO Overview 3.0](#), section 1.8 ("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.").

The Panel therefore finds that the disputed domain name is confusingly similar to Complainant's mark and concludes that the first element of paragraph 4(a) of the Policy is established.

B. Rights or Legitimate Interests

The Panel also concludes that Respondent has no rights or legitimate interests in the disputed domain name.

The Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in a domain name. The list includes: (1) using the domain name in connection with a *bona fide* offering of goods and services; (2) being commonly known by the domain name; or (3) making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers. Policy, paragraphs 4(c)(i) – (iii).

A complainant must show a *prima facie* case that a respondent lacks rights or legitimate interests in a disputed domain name, after which the burden of rebuttal passes to the respondent. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#). The absence of rights or legitimate interests is established if a complainant makes out a *prima facie* case and the respondent enters no response. *Id.*, (citing *De Agostini S.p.A. v. Marco Cialone*, WIPO Case No. [DTV2002-0005](#)).

The Panel accepts Complainant's undisputed allegations that Respondent has no affiliation, no relevant trademark rights, and no authorization or license to use Complainant's trademark in the disputed domain name. The Panel also accepts Complainant's averment that Respondent is not commonly known by the disputed domain name.

Since the disputed domain name does not route Internet users to authorized products or services associated with Complainant's trademarks, the Panel concludes that there is no *bona fide* use.¹

¹ Even if the offerings via the website to which the disputed domain names route were related to genuine services of Complainant, the website would not qualify for fair use since the website misleads Internet users by failing to disclose its lack of a relationship with Complainant, the trademark owner. E.g., *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#); [WIPO Overview 3.0](#), sections 2.5 and 2.8.

Complainant's submissions and the record demonstrate that the disputed domain name resolves to a website that uses a visual style similar to Complainant's official websites, purports to offer American Airlines-sponsored transportation, and prominently displays multiple trademarks of Complainant. The Panel also accepts Complainant's undisputed allegations that Respondent has no authorization to display Complainant's trademarked logos.

Respondent has refrained from opposing the evidence of impersonation and copying provided by Complainant, and the Panel finds that the disputed domain name has been used for such activities.

In light of the evidence and allegations submitted by Complainant, the Panel holds that Respondent is not making a legitimate or fair use of the disputed domain name and that Complainant establishes a *prima facie* case. Respondent has not opposed or rebutted that *prima facie* case. The Panel rules, therefore, that Respondent lacks rights or legitimate interests in the disputed domain name.

The Panel accordingly concludes that the second element of Policy paragraph 4(a) is established.

C. Registered and Used in Bad Faith

The Panel also agrees that the Complaint establishes that Respondent has registered and uses the disputed domain name in bad faith, as required under paragraph 4(a)(iii) of the Policy.

Respondent registered the disputed domain name over 73 years after Complainant registered its U.S. trademark rights. In the Panel's view, there can be no question that Respondent registered the disputed domain name with knowledge of Complainant's rights. The Panel finds that a presumption of bad faith is created by Respondent's mere registration of a domain name which is confusingly similar to Complainant's widely known AMERICAN AIRLINES mark. [WIPO Overview 3.0](#), section 3.1.4. This is particularly true where it appears to the Panel that Respondent's choice to add the terms "airport" and "transportation" to Complainant's trademark signals attempts to target Complainant and mislead Internet users to understand that the disputed domain name is associated with Complainant and its trademarks. Respondent has submitted no evidence to contradict this presumption of bad faith.

The selection of the confusingly similar disputed domain name and MX records configuration to enable the disputed domain name to be used for emails, misleading transactions, and collection of customer details are also clear evidence of bad faith registration and use under the Policy. Policy paragraph 4(b)(iv) ("by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site [...] by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site [...] or of a product or service on your web site [...]").

The Panel also agrees with Complainant that the use of the disputed domain name to resolve to a website that displays Complainant's registered trademarks and imitates Complainant's visual style and logos clearly evidences Respondent's intention to disrupt Complainant's business. This constitutes bad faith registration and bad faith use under Policy, paragraph 4(b)(iii).

Respondent's failure to submit a response to the Complaint is further evidence of use in bad faith. *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

The Panel holds therefore that Respondent registered and used the disputed domain name in bad faith, thus fulfilling the requirements of the third element of paragraph 4(a) 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 <americanairlinesairporttransportation.com> be transferred to Complainant.

/Jeffrey D. Steinhardt/

Jeffrey D. Steinhardt

Sole Panelist

Date: October 31, 2023