

ADMINISTRATIVE PANEL DECISION

American Airlines, Inc. v. xt li
Case No. D2023-3615

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 xt li, China.

2. The Domain Name and Registrar

The disputed domain name <americanairlinescreditcard.org> is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 28, 2023. On August 29, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 29, 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 August 31, 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 September 5, 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 September 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 2, 2023.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on October 3, 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 a United States company and one of the largest air carriers in the world. The Complainant and its affiliates served over 350 destinations in 50 countries with approximately 7,000 daily flights.

The Complainant holds a number of registered trademarks for AMERICAN AIRLINES in jurisdictions around the world including in China, where the Respondent is located:

- United States trademark registration no. 0514294 for AMERICAN AIRLINES word mark registered on August 23, 1949 (with a date of first use in 1934);
- China trademark registration no. 779736 for AMERICAN AIRLINES word mark registered on March 21, 1995;
- European Union trademark registration no. 000153726 for AMERICAN AIRLINES word mark registered on March 29, 1999.

The Complainant also uses the domain names <aa.com> and <americanairlines.com> to promote its activities. The <americanairlines.com> domain name redirects Internet users to a website operating from the <aa.com> domain name.

The disputed domain name was registered on July 21, 2023, and dynamically resolves to a rotating group of websites including a website that appears to be possibly infecting Internet users' computers with malware.

5. Parties' Contentions

A. Complainant

The Complainant asserts that each of the elements enumerated in paragraph 4(a) of the Policy and the corresponding provisions in the Rules have been satisfied. In particular, the Complainant asserts that:

- (1) the disputed domain name is confusingly similar to the Complainant's mark because it incorporates the Complainant's AMERICAN AIRLINES mark in full followed by additional term "credit card", and then the generic Top-Level Domain ("gTLD") ".org". The term "credit card" is strongly associated with and descriptive of the Complainant's well-known co-branded credit card products, and thus, the use of that term with the Complainant's Marks actually increases the likelihood of confusion. The applicable gTLD in a domain name is viewed as a standard registration requirement and as such is disregarded for the purpose of determining whether a disputed domain name is identical or confusingly similar to a trademark;
- (2) the Respondent does not have any rights or legitimate interests in the disputed domain name because he registered the disputed domain name which misappropriates and is confusingly similar to the Complainant's marks without the latter's authorization or consent. 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 Respondent has never operated any *bona fide* or legitimate business under the disputed domain name and is not making protected noncommercial or fair use of the disputed domain name. Instead, the Respondent used the disputed domain name to divert Internet traffic to a rotating group of websites,

including fraudulent Microsoft sites, which displayed notifications purportedly from Microsoft stating that malware has been detected on the visitor's computer in an attempt to trick the visitor into clicking a button which will actually install malware on the visitor's computer. The Respondent is not commonly known by the disputed domain name;

- (3) the Respondent both registered and is using the disputed domain name in bad faith. Long after the Complainant established its rights in its famous AMERICAN AIRLINES mark, and with knowledge of those marks, the Respondent acquired the confusingly similar disputed domain name to divert Internet traffic to deceptive offers to download malware for the Respondent's commercial gain. The Respondent's deceptive distribution of unsolicited software or malware products through the websites resolving or redirecting from the disputed domain name constitutes further evidence of the Respondent's bad faith registration and use of the disputed domain name. The disputed domain name has an active MX (mail exchange) record. The active MX record indicates use for email, which evidences a likelihood of additional bad faith use of the disputed domain name, *e.g.*, through phishing or fraudulent email communications. The mere fact that the Respondent has registered the disputed domain name which incorporates the famous Complainant's marks is alone sufficient to give rise to an inference of bad faith. The Respondent was clearly aware of the Complainant's rights in the latter's famous marks when acquiring the disputed domain name. Use of a privacy or proxy registration service to shield its identity and elude enforcement efforts by the legitimate trademark owner demonstrates the Respondent's bad faith use and registration of the disputed domain name.

The Complainant seeks transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (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.

The Panel will further analyze the potential concurrence of the above circumstances.

Moreover, the Panel has taken note of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") and, where appropriate, will decide consistent with the consensus views captured therein.

A. Identical or Confusingly Similar

According to paragraph 4(a)(i) of the Policy it should be established that the disputed domain name is identical or confusingly similar to a mark in which the Complainant has rights.

The Panel confirms that for the purposes of paragraph 4(a)(i) of the Policy the Complainant has satisfied the threshold requirement of having relevant trademark rights for the AMERICAN AIRLINES

The disputed domain name incorporates Complainant's AMERICAN AIRLINES mark in full followed by additional term "credit card", and then the generic Top-Level Domain ("gTLD") ".org". The term "credit card" does not prevent the Complainant's mark from being recognizable. See section 1.8 of the [WIPO Overview 3.0](#).

It is well accepted by UDRP panels that a gTLD, such as ".org", is typically ignored when assessing whether a domain name is identical or confusingly similar to a trademark. See section 1.11.1 of the [WIPO Overview 3.0](#).

For all of the above-mentioned reasons, the Panel is of the view that the disputed domain name is confusingly similar to the Complainant's mark, which means that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the complainant must make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. If such a *prima facie* case is made out, then the burden of production shifts to the respondent to demonstrate rights or legitimate interests in the disputed domain name.

On the basis of the evidence and arguments submitted, the Panel finds that the Complainant makes out a *prima facie* case that the Respondent is not a *bona fide* provider of goods or services under the disputed domain name and is not making legitimate noncommercial or fair use of the disputed domain name.

The Panel notes that the Respondent is not commonly known by the disputed domain name, whereas the Complainant has prior rights in the trademarks, which precede the Respondent's registration of the disputed domain name.

The Respondent is not affiliated with the Complainant in any way. The Respondent has not been authorized by the Complainant to register or use the disputed domain name or to seek the registration of any domain name incorporating the AMERICAN AIRLINES mark or a mark similar to the AMERICAN AIRLINES mark.

There is no evidence that the Respondent has used or made demonstrable preparations to use the disputed domain name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods and services. Instead, the Respondent is using the disputed domain name to divert Internet traffic to a rotating group of websites, including fraudulent Microsoft sites, which display notifications purportedly from Microsoft stating that malware has been detected on the visitor's computer in an attempt to trick the visitor into clicking a button which will actually install malware on the visitor's computer. Additionally, according to [WIPO Overview 3.0](#), section 2.13.1, "[p]anel[s] have categorially held that use of a domain name for illegal activity (e.g., ...distribution of malware...) can never confer rights or legitimate interests on a respondent".

As such, the Panel finds that the Respondent has never operated any *bona fide* or legitimate business under the disputed domain name, and the Respondent's use of the disputed domain name does not constitute a legitimate noncommercial or fair use of the disputed domain name. Instead, the Respondent is using the disputed domain name to redirect Internet traffic to websites with deceptive offers to download malware. As such, the Respondent's use of the disputed domain name can hardly be called fair or legitimate.

The Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain name. With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must prove on the balance of probabilities both that the disputed domain name was registered in bad faith and that it is being used in bad faith.

As it stands from the case file, and also found by other panels, the AMERICAN AIRLINES trademark is known throughout the world as a result of extensive use and advertising creating an exclusive connection between the AMERICAN AIRLINES mark and the Complainant. Thus, it is the view of the Panel that the Respondent knew or should have known about the Complainant and its trademark when it registered the disputed domain name. The mere fact that the Respondent has registered the disputed domain name which incorporates the famous AMERICAN AIRLINES marks is alone sufficient to give rise to an inference of bad faith, which is supported by recent UDRP panel decisions in favor of the Complainant, e.g., *American Airlines, Inc. v. Domain Admin*, WIPO Case No. [D2023-3589](#); *American Airlines, Inc. v. Ramadhir Singh, WhoisGuard Protected, WhoisGuard, Inc. et al.*, WIPO Case No. [D2021-0294](#). Furthermore, in view of the Complainant's ownership of trademarks in China, where the Respondent is reportedly located, as referenced above, the Panel finds it more likely than not that the Respondent purposefully registered the disputed domain name with the Complainant in mind.

The Respondent's deceptive distribution of unsolicited software or malware products through the websites resolving or redirecting from the disputed domain name constitutes further evidence of the Respondent's bad faith registration and use of the disputed domain name, according to many Panel decisions. See [WIPO Overview 3.0](#), section 3.4, and *Skyscanner Limited v. Host Master 1337 Services, LLC*, Case No. [D2019-2664](#).

The Respondent has not participated in these proceedings and has failed to rebut the Complainant's contentions and to provide any evidence of actual or contemplated good-faith use and indeed none would seem plausible.

In light of the above, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith and that the Complainant has established its case under 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, <americanairlinescreditcard.org>, be transferred to the Complainant.

/Ganna Prokhorova/

Ganna Prokhorova

Sole Panelist

Date: October 17, 2023