

ADMINISTRATIVE PANEL DECISION

American Airlines, Inc. v. Anton Semenov, Home
Case No. D2023-4644

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 Anton Semenov, Home, Uzbekistan.

2. The Domain Name and Registrar

The disputed domain name <americanairlines.flights> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 8, 2023. On November 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 10, 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 November 13, 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 a first amended Complaint on November 20, 2023. After the Center requested an amendment to the contact details in the first amended Complaint on November 22, 2023, the Complainant then filed a second amended Complaint on November 27, 2023.

The Center verified that the Complaint together with the amended Complaints 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 November 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 18, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 19, 2023.

The Center appointed Manuel Moreno-Torres as the sole panelist in this matter on December 26, 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 premier airline company for business and leisure travelers. The Complainant has been operating for more than 90 years and with its affiliates serve over 360 destinations in nearly 50 countries, with nearly 7,000 daily flights.

The Complainant is the owner of AMERICAN AIRLINES and AMERICAN trademarks in different jurisdictions. By way of example in the United States Patent and Trademark Office:

AMERICAN with registration number 5288639 and registered on September 19, 2017;
AMERICAN AIRLINES with registration number 0514294 and registered on August 23, 1949;
AMERICAN AIRLINES with registration number 1845693 and registered on July 19, 1994.

According to previous panel decisions, the Complainant's AMERICAN AIRLINES or AMERICAN are trademarks to be considered well known for UDRP purposes.

The Complainant also owns the domain name <americanairlines.com>, registered in 1998, which redirects to <aa.com> where the Complainant's primary website is hosted.

The disputed domain name was registered on July 13, 2023, and redirects to a website "www.aviasales.com" which purports to allow visitors to "Search cheap flight tickets" on a variety of airlines, including on airlines that directly compete with the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the use of the disputed domain name is not a *bona fide* offering of goods or services under Policy 4(c)(i), nor a legitimate noncommercial or fair use of the domains under Policy 4(c)(iii), both allegations supported with a number of UDRP decisions.

Further, the Complainant supports a finding of bad faith registration and use since the Respondent's performance matches with the circumstances depicted in the Policy, paragraph 4(b)(iii) and (iv).

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

There are no exceptional circumstances within paragraph 5(f) of the Rules to prevent the Panel from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a substantive Response. This dispute resolution procedure is accepted by the domain name registrant as a condition of registration.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the Complainant's marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Besides, the Top-Level Domain ("TLD") is generally considered a requirement for the composition of a domain name and is not usually taken into account in the comparison of this requirement. However, in the present case the Panel notes that the use of ".flights" generates confusion because it refers to the scope of business activity of the Complainant. See [WIPO Overview 3.0](#), section 1.11.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Indeed, none of the examples of the respondent rights enumerated in the Policy apply in the present case, and as noted in [WIPO Overview 3.0](#), section 2.5.1, UDRP panels have found that domain names identical to a complainant's trademark carry high risk of implied affiliation. Moreover, given the purposeful registration of the identical disputed domain name in the ".flights" TLD, it is clear that the Respondent sought to create a direct inference of association between the disputed domain name and the Complainant in order to mislead unsuspecting Internet users expecting to find the Complainant.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel remarks that the Respondent use of the disputed domain name matches with the circumstances described in the Policy paragraph 4(b)(iv) since the disputed domain name serves to bait and catch Internet users under the attraction of the Complainant's well-known trademarks.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Panel also looks at [WIPO Overview 3.0](#) section 3.1.1 for circumstances indicating bad faith registration, including how "...the nature of the domain name and the distinctiveness of trademark at issue, among other factors, are relevant to this inquiry", and concludes that the disputed domain name falls within what is deemed to be considered bad faith registration.

Based on the available record, the Panel finds that the Complainant has established the third element 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 <americanairlines.flights> be transferred to the Complainant.

/Manuel Moreno-Torres/

Manuel Moreno-Torres

Sole Panelist

Date: January 9, 2024