

## **ADMINISTRATIVE PANEL DECISION**

American Airlines, Inc. v. Carolina Rodrigues, Fundacion Comercio Electronico  
Case No. D2023-5024

### **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 Carolina Rodrigues, Fundacion Comercio Electronico, Panama

### **2. The Domain Name and Registrar**

The disputed domain name <americanairllnes.com> 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 December 1, 2023. On December 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 4, 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 December 5, 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 December 6, 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 December 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 2, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 10, 2024.

The Center appointed Kateryna Oliinyk as the sole panelist in this matter on January 16, 2024. 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 leading international airline company providing services of travel and travel agency. It has been operating for more than 90 years. The Complainant owns a portfolio of the trademark registrations of an AMERICAN AIRLINES series, including the following trademark registrations:

- United States Trademark Registration No. 514,294 for AMERICAN AIRLINES, registered on August 23, 1949;
- United States Trademark Registration No. 1,845,693 for AMERICAN AIRLINES, registered on July 19, 1994;
- United States Trademark Registration No. 4,939,082 for AMERICAN AIRLINES, registered on April 19, 2016, for services in International Class 35;
- United States Trademark Registration No. 5,279,167 for AMERICAN AIRLINES, registered on September 5, 2017, for goods and services in International Classes 09 and 38;
- United States Trademark Registration No. 5,592,865 for AMERICAN AIRLINES, registered on October 30, 2018, for services in International Class 36;
- United States Trademark Registration No. 5,573,314 for AMERICAN AIRLINES, registered on October 2, 2018, for goods in International Class 35.  
(the "AMERICAN AIRLINES trademark").

The Complainant owns and operates the domain names <aa.com> and <americanairlines.com>, which redirects to <aa.com> where the primary website of the Complainant is hosted.

The disputed domain name was created on October 2, 2023. The disputed domain name resolves to a website containing and leads to a parking page containing pay-per-click ("PPC") advertising links that redirect to websites competing with the Complainant's business.

The Complainant provided evidence showing that the Respondent has also listed the disputed domain name for sale with a minimum offer of USD 999 on <Sedo.com>, a domain name sales and auction platform.

The Respondent has been named as a respondent in numerous UDRP proceedings, all decided in favour of the complainants.

#### **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.

### Identical or Confusingly Similar

The Complainant contends that the disputed domain name and the AMERICAN AIRLINES trademark are confusingly similar.

According to the Complainant's contentions, the disputed domain name incorporates the Complainant's AMERICAN AIRLINES trademark in full, changing the Complainant's trademark only by replacing the second "i" in the element "airlines" with the letter "l", and then the generic top-level domain ("gTLD") ".com".

### No Rights or Legitimate Interests

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name.

According to the Complainant's contentions, 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 submits that the use of the disputed domain name to host a parked page comprising PPC links does not represent a bona fide offering or a legitimate noncommercial or fair use of the disputed domain name.

The Complainant further asserts that the Respondent's attempts to sell the disputed domain name well in excess of its out-of-pocket costs, while the Respondent was well aware it contains the Complainant's well-known trademark, does not create rights and legitimate interests under the Policy.

### Registered and Used in Bad Faith

The Complainant submits that the Respondent registered and is using the disputed domain name in bad faith. The Respondent must have been aware of the Complainant's AMERICAN AIRLINES trademark when it registered the disputed domain name. The Complainant contends that the disputed domain name is used with the view of attracting Internet users for commercial gain by creating a likelihood of confusion with the Complainant's trademark.

The Complainant further indicates that the Respondent has been named as a respondent in over than 200 UDRP proceedings. The Respondent's pattern of prior bad faith registration of domain names utilizing well-known trademarks in which the respondent has no rights or legitimate interests provides further evidence of Respondent's bad faith registration and use of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

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

- 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.

Considering that the Respondent did not reply to the Complainant's contentions, in order to determine whether the Complainant has met its burden as stated in paragraph 4(a) of the Policy, the Panel bases its decision on the statements and documents submitted and in accordance with the Policy and the Rules. Under paragraph 14(b) of the Rules, where a Party does not comply with any provision of the Rules, the Panel "shall draw such inferences therefrom as it considers appropriate".

#### **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.

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

There are two parts to this inquiry: (i) the Complainant must demonstrate that it has rights in a trademark and, if so, (ii) the disputed domain name must be shown to be identical or confusingly similar to the trademark.

According to section 1.1.1 of the [WIPO Overview 3.0](#), the term "trademark or service mark" as used in UDRP paragraph 4(a)(i) encompasses both registered and unregistered (sometimes referred to as common law) marks.

Ownership of a nationally or regionally registered trademark serves as a prima facie evidence that the Complainant has trademark rights for the purposes of standing to file this Complaint. See section 1.2 of the [WIPO Overview 3.0](#). The Complainant submitted evidence that the AMERICAN AIRLINES trademark enjoys protection under national, regional, and international trademark registrations. Thus, the Panel finds that the Complainant's rights in the AMERICAN AIRLINES trademark have been established pursuant to the first element of the Policy.

Therefore, 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 has established that the disputed domain name contains the AMERICAN AIRLINES trademark as well as the generic Top-Level Domain ("gTLD") ".com", changing the Complainant's trademark only by replacing the second "i" in the element "airlines" with the letter "l".

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Section 1.9 of [WIPO Overview 3.0](#) states: "A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element." Further, section 1.11.1 of [WIPO Overview 3.0](#) states: "The applicable TLD in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test". The gTLD ".com" will therefore be discounted in the Panel's consideration of confusing similarity.

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.

Based on the case filing, the Panel establishes that there is no evidence that the Respondent is a licensee of, or otherwise affiliated with, the Complainant, and apparently, it has not been authorized by the Complainant to use its AMERICAN AIRLINES trademark.

Based on the present case records, the Panel finds that there is no evidence that the Respondent has been commonly known by the disputed domain name, and there is no similarity or association between the name of the Respondent and the disputed domain name, which could demonstrate rights or legitimate interests of the Respondent. See, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones TheDotCafe*, WIPO Case No. [D2008-0642](#).

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 fair use or a bona fide offering of goods or services.

The Panel notes the statements in the [WIPO Overview 3.0](#) on the question of whether “parked” pages comprising PPC links support the Respondent’s rights or legitimate interests. Section 2.9 of the [WIPO Overview 3.0](#) stated that:

“[a]pplying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users.

Panels have recognized that the use of a domain name to host a page comprising PPC links would be permissible – and therefore consistent with respondent rights or legitimate interests under the UDRP – where the domain name consists of an actual dictionary word(s) or phrase and is used to host PPC links genuinely related to the dictionary meaning of the word(s) or phrase comprising the domain name, and not to trade off the complainant’s (or its competitor’s) trademark.”

In the present case, the Respondent’s use of the confusingly similar disputed domain name to host a parking page with PPC links referring to the services competing with the Complainant’s and offered by third parties does not, absent any further explanation, provide the Respondent with rights or legitimate interests in the disputed domain name as the services advertised on the website to which the disputed domain name resolve do not correspond to any obvious meaning of the phrase comprising the disputed domain name. The Respondent’s use of the disputed domain name is not bona fide, but rather evidence of bad faith, seeing

as the Respondent presumably receives click-through-revenue by virtue of the misled Internet users drawn to the PPC site because of the confusingly similar disputed domain name.

Hence the Respondent's use of the confusingly similar disputed domain name to host a parking page with PPC links does not, absent any further explanation, provide the Respondent with rights or legitimate interests in the disputed domain name.

In addition, the website to which the disputed domain name redirects to offers the disputed domain name for sale to the public at a price likely in excess of out-of-pocket costs of the Respondent, which could not be considered a bona fide offering of goods/services or justifying rights and legitimate interests on behalf of the Respondent.

The Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has chosen not to respond to the Complaint and thus has failed to provide any evidence of rights or legitimate interests in the disputed domain name. The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name under paragraph 4(a)(ii) of the Policy.

Finally, the Panel has established that the Respondent has been engaged in a pattern of trademark-abusive domain name registrations, that is generally inconsistent with a pattern of bona fide activity and supports the finding that the Respondent lacks rights or legitimate interests in respect of the disputed domain name.

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 notes that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

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 disputed domain name was created well after the AMERICAN AIRLINES trademark was first used and registered.

The disputed domain name, consisting of an obvious misspelling of the Complainant's AMERICAN AIRLINES trademark, resolves to a page offering PPC links for which the Respondent most likely would receive some commercial gain. In these circumstances where the Respondent has offered no plausible explanation for the registration of the disputed domain name, the Panel finds, on the balance of probabilities, that the Respondent was most likely aware of the Complainant at the time of registration and is using the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the AMERICAN AIRLINES trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

Respectively, the Panel finds that the use of a domain name that is identical or confusingly similar to a trademark to obtain click-through-revenue can amount to bad faith use (see, among others, *lflscience Limited v. Domains By Proxy LLC / Dr Chauncey Siemens*, WIPO Case No. [D2016-0909](#); and *AMADEUS IT GROUP, S.A. v. Contact Privacy Inc. Customer 0151133672, Contact Privacy Inc. Customer 0151133672 / Milen Radumilo*, WIPO Case No. [D2018-2192](#)).

Furthermore, the existence of the offers to sell the disputed domain name greater than any likely out-of-pocket costs of the Respondent, along with the lack of any evidence supporting any other explanations as to the possible (legitimate) use of the disputed domain name leads the Panel to conclude that the Respondent registered the disputed domain name for the purposes of selling it for an amount in excess of its out-of-pocket costs. Pursuant to 4(b)(i) of the Policy the Respondent has registered and used the disputed domain name in bad faith.

Engagement of the Respondent in a pattern of trademark-abusive domain name registrations is also supports the finding of bad faith registration and use of the disputed domain name. See, e.g., *Alstom v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2023-4902](#), and *American Airlines, Inc. v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2022-4950](#).

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.com> be transferred to the Complainant.

*/Kateryna Oliinyk/*

**Kateryna Oliinyk**

Sole Panelist

Date: February 12, 2024