

## **ADMINISTRATIVE PANEL DECISION**

American Airlines, Inc. v. Venkata Prasadam, Venkata Prasadam Sales  
Case No. D2024-1671

### **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 Venkata Prasadam, Venkata Prasadam Sales, India.

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

The disputed domain name <ame4icanairlines.buzz> is registered with Porkbun LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 19, 2024. On April 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 22, 2024, 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 (Whois Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 23 ,2024 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 amendment to the Complaint on April 28, 2024.

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 May 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 21, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 22, 2024.

The Center appointed Daniel Kraus as the sole panelist in this matter on June 3, 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 one of the largest air carriers in the world and provides air transportation for business and leisure Travelers. The Complainant and its affiliates serve over 360 destinations in nearly fifty countries, with nearly 7,000 daily flights.

The Complainant owns multiple trademarks for AMERICAN AIRLINES (“AMERICAN AIRLINES trademarks”), including in particular:

- Indian trademark AMERICAN AIRLINES, registration no. 287052, registered on August 25, 1993;
- Indian trademark AMERICAN AIRLINES, registration no. 448977, registered on October 24, 2003;
- Indian trademark AMERICAN AIRLINES, registration no. 1266184, registered on December 31, 2014; and
- Indian trademark AMERICAN AIRLINES, registration no. 3669741, registered on November 3, 2017.

The Complainant is also the owner of multiple domain names, including <americanairlines.com> and <aa.com>, which it has continuously used in commerce since 1998.

The above trademarks and domain names were registered prior to the registration of the disputed domain name, which was registered on March 28, 2024.

The Complainant has provided evidence indicating that the disputed domain name resolved to a website which contains the text “ Indexof/ ” and a folder entitled “ cgi-bin ”, which does not contain any files and, when clicked, resolves to an error page. While there is no active content posted on the disputed domain name, the latter is still being passively held by the Respondent.

#### **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 disputed domain name is identical to its trademarks since the disputed domain name incorporates the Complainant’s trademarks only by replacing the letter “r” by a “4” and adding the generic Top-Level Domain (“gTLD”) “. buzz.”

The Complainant further contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. 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. There is no substantive content posted on the website to which the disputed domain name leads, which is essentially being passively held by the Respondent.

The Complainant accordingly concludes that passive holding of a domain name containing a well-known trademark does not constitute a bona fide or legitimate business use of the disputed domain name.

The Complainant further asserts that the disputed domain name was registered by the Respondent in bad faith and is being used in bad faith. The Complainant notes that even if the disputed domain name does not resolve to any active content, the Respondent’s passive holding of the disputed domain name alone is sufficient to establish the Respondent’s bad faith.

Furthermore, the Complainant claims that the disputed domain name has active MX (mail exchange) records, which indicate a likelihood of additional bad-faith use of the disputed domain name for fraudulent email or phishing communications.

Finally, the Complainant mentions that the Respondent has also registered another domain name that targets the Complainant and is identical to the Complainant's trademarks, object of proceedings *American Airlines, Inc. v. Venkata Prasadam, Venkata Prasadam Sales*, WIPO Case No [D2024-1524](#), showing that the Respondent has continued to engage in its bad faith registration and use of domain names specifically targeting the Complainants trademarks.

The Complainant requests that the disputed domain name be transferred to him.

## **B. Respondent**

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

## **6. Discussion and Findings**

In order to succeed in its Complaint, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied: (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 with respect to the disputed domain name; and (iii) the disputed domain name has been registered and is being used in bad faith.

### **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.

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 Complainant contends that the disputed domain name is confusingly similar to the AMERICAN AIRLINES trademarks. The Complainant contends that the replacement of the letter "r" in the word "American" through a "4" in the disputed domain name is an attempt at typo-squatting and results in confusing similarity between the disputed domain name and the AMERICAN AIRLINES trademarks. [WIPO Overview 3.0](#), sections 1.7 and 1.9.

The Panel agrees and finds that the disputed domain name is confusingly similar to the AMERICAN AIRLINES trademarks and hence that the first element of the Policy has been established.

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.

The disputed domain name resolves to a website without any active content. Also, noting that the disputed domain name is a misspelled version of the AMERICAN AIRLINES trademarks, and that MX records have been configured so as to allow email to be sent from the disputed domain name, the Panel finds that the disputed domain name represents an implied ongoing threat to the Complainant due to its inherently misleading nature, which renders any fair use implausible under the circumstances of this proceeding.

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.

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.

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.

In the present case, the Panel notes that it is unlikely that the Respondent did not know the well-known AMERICAN and AMERICAN AIRLINES trademarks in India and worldwide when registering the disputed domain name.

As established before and seen on the evidence provided, the Complainant has not only presence worldwide, but its name alone carries a lot of history and prestige, making it one of the most popular and recognizable airlines in the world, carrying a considerable amount of fame.

According to the evidence in the present case, it is clear that the Respondent was aware of the Complainant's rights of the trademarks AMERICAN and AMERICAN AIRLINES when the Respondent acquired the disputed domain name. The fact that the Respondent incorporated the complete well-known trademark as AMERICAN and AMERICAN AIRLINES into the disputed domain name, only replacing the letter "r" by a "4" is enough evidence that the intention of the Respondent was to obtain a benefit out of the trademark with the disputed domain name and target the Complainant's business.

The Panel also note that MX records are set up for the disputed domain name, which would enable the Respondent to potentially send emails from the disputed domain name and such behavior would amount to a use of the disputed domain name in bad faith.

As regards the passive holding, panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response

or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement).

[WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, and the nature of the disputed domain name which consists in a typo of the AMERICAN AIRLINES trademarks and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

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 <ame4icanairlines.buzz> be transferred to the Complainant.

*/Daniel Kraus/*

**Daniel Kraus**

Sole Panelist

Date: June 17, 2024