

ADMINISTRATIVE PANEL DECISION

American Airlines, Inc. v. 尹不忧 (Bu You Yin)
Case No. D2024-2776

1. The Parties

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

The Respondent is 尹不忧 (Bu You Yin), China.

2. The Domain Name and Registrar

The disputed domain name <americanairlines.tech> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on July 8, 2024. On July 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 10, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 16, 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 the first amended Complaint in English and the second amended Complaint in English on July 22, 2024.

On July 16, 2024, the Center informed the Parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On July 17 and July 22, 2024, the Respondent requested Chinese to be the language of the proceeding. On July 22, 2024, the Complainant requested English to be the language of the proceeding.

The Center verified that the Complaint together with the first and the second 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 in English and Chinese, and the proceedings commenced on July 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 13, 2024. The Complainant submitted the third amended Complainant in English on July 24, 2024. The Respondent did not submit any formal response. Accordingly, the Center sent the commencement of panel appointment process email to the Parties on August 14, 2024.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on August 28, 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 airlines in the world, well known around the globe during its more than 90-year history. The Complainant and its affiliates serve over 360 destinations in nearly 50 countries, with nearly 7,000 daily flights. Since 1934, the Complainant operates under the trademark AMERICAN AIRLINES, as well other trademarks such as AA or AMERICAN, alone or in connection with other words and designs.

The Complainant owns a large, international trademark portfolio for the AMERICAN AIRLINES marks, including in the Respondent's jurisdiction China, including, but not limited to the following marks: United States Trademark No. 514294 AMERICAN AIRLINES, registered on August 23, 1949, in class 39; Chinese Trademark Registration No. 616440 for AMERICAN AIRLINES, registered on October 30, 1992, in class 14; and Chinese Trademark Registration No. 779736 for AMERICAN AIRLINES, registered on March 21, 1995, in class 39.

Prior decisions under the Policy have already recognized the internationally well-known character of the Complainant's AMERICAN AIRLINES marks (see for instance *American Airlines, Inc. v. WhoisGuard Protected, WhoisGuard, Inc. / Hall Fame*, WIPO Case No. [D2020-1686](#); *American Airlines, Inc. v. WhoisGuard Protected, WhoisGuard, Inc. / Brunos Jeans*, WIPO Case No. [D2020-2288](#); and *American Airlines, Inc. v. Ramadhir Singh, WhoisGuard Protected, WhoisGuard, Inc. / Reema Gupta, Ballu Balwant, Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Lucy Lionel, Lucy99, Red Keep*, WIPO Case No. [D2021-0294](#)).

The Complainant further owns a domain name portfolio comprising many domain names which incorporate the same mark, including <americanairlines.com> (registered on April 17, 1998), which links to its corporate website, allowing customers to book travel reservations around the world, change or cancel travel reservations, check in for flights, and view flight status, etc.

The disputed domain name was registered on June 1, 2024, and is therefore of a later date than the Complainant's abovementioned trademark registrations. The disputed domain name directs to an active, parked page on the "Dan.com" domain name resales platform, currently offering the disputed domain name for sale for a listed "Buy now" price of USD 8,888.

The Respondent is 尹不忧 (Bu You Yin), based in China, self-represented.

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 prior registered well-known trademark. The Complainant also contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the Respondent is not licensed by or related in any way with the Complainant. The Complainant also contends that given the goodwill of the Complainant's trademark and its worldwide reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademarks and that such registration therefore constitutes a registration in bad faith. Furthermore, the Complainant argues that the disputed domain name points to a parking page where the domain name is offered for sale for USD 8,888, and that the disputed domain name is also offered on various other domain name sales platforms for various other prices, which the Complainant contends constitutes a general offer to sell the disputed domain name for an amount clearly in excess of the out-of-pocket expenses related to the disputed domain name. The Complainant essentially argues that this evidences the Respondent's lack of rights or legitimate interests as well as the Respondent's bad faith. Finally, the Complainant also argues that the Respondent has conducted a pattern of bad faith domain name registrations.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions but requested Chinese to be the language of the proceeding via email on July 17, 2024. In this email, and in various other emails sent subsequently by the Respondent, the Respondent also provided a number of arguments in response to the Complaint and amended Complaints, which the Panel summarizes as follows: (1) the Respondent is the valid registrant and owner of the disputed domain name; (2) the Complainant does not own the AMERICAN AIRLINES marks in China and this mark should also be unregistrable in China; (3) the expression "AmericanAirlines" is used as and to be considered a generic name referring to the entire aviation industry in the United States; (4) the Respondent is not using the disputed domain name in bad faith because the Respondent has not used it to host any content about the Complainant or its competitors and the disputed domain name simply resolves to the Dan.com's sales page; (5) the Complainant is not the only potential buyer of the disputed domain name as any person or entity interested in the U.S. aviation industry may be a potential buyer; and (6) the fact that the disputed domain name is also available for sale on other platforms such as Sedo.com, and Afternic.com, means that those platforms have, in accordance with their own rules, reviewed the disputed domain name and decided that it does not infringe on third party trademark rights.

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain names is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint and the multiple amended Complaints were filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the disputed domain name is written in Latin script rather than Chinese script, that the disputed domain name contains the Complainant's well-known AMERICAN AIRLINES mark which consists of English letters and which is strongly associated with the Complainant's well-known airline based in the United States; that the disputed domain name resolves to a parked GoDaddy page which contains writing in English stating the disputed domain name is available for sale and lists the price in USD and that the Respondent can therefore be considered to be familiar with the English language. The Complainant also contends that the Complainant's counsel has no familiarity with reading and writing in the Chinese language, and therefore, conducting proceedings in Chinese would require commissioning a translator, adding unnecessary cost to the Complainant who already bears the cost of filing, and it would cause delay in commencement of proceedings.

The Respondent requested Chinese to be the language of the proceeding based, essentially, on the following arguments: the Respondent is Chinese, the Registrar is a Chinese domain name registrar, the Respondent's management page for the disputed domain name is in Chinese, and the Registration Agreement is also in Chinese.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

The Panel has considered all the matters above, and gives particular weight to the following elements: the fact that the website to which the disputed domain name directs is entirely in English; the fact that the disputed domain name is identical to the Complainant's internationally well-known mark AMERICAN AIRLINES, and the fact that both Parties have clearly been able to respond to each other's specific arguments as set out in the Complaint and amended Complaints and in the Respondent's various email communications. In view of all these elements, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English. Nevertheless, given the familiarity of the Panel with both Chinese and English, the Panel accepts all communications, documents, and evidence adduced by both Parties in their own respective language without translation, see [WIPO Overview 3.0](#), section 4.5.1.

6.2 Substantive Issues: Three Elements

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 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark (including in China - contrary to what the Respondent claims) for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Complainant's mark is reproduced within the disputed domain name, the only differing element being the Top-Level Domain ".tech". Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 successfully 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. Particularly, the Panel disagrees with all arguments presented by the Respondent: it is the settled view of panels applying the Policy that mere registration of a disputed domain name does not confer rights or legitimate interests on the respondent. Moreover, the Respondent's statement that the disputed domain name refers to "American airlines" as a generic concept is not supported by any element or evidence, nor by the actual use made of the disputed domain name by the Respondent (i.e., attempting to sell the disputed domain name) and can therefore not be accepted.

Based on the evidence provided, the Panel notes that the Respondent is not commonly known by the disputed domain name and that there are no elements in this case that point to the Respondent having made any reasonable and demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services. Instead, according to the evidence, the Respondent has only connected the disputed domain name to a parked page on the "Dan.com" domain name resales platform, currently offering it for sale for a "Buy now" price of USD 8,888. The Panel finds that this price is obviously in excess of the documented out-of-pocket costs relating to the disputed domain name. Such use does not confer rights or legitimate interests in the disputed domain name on the Respondent (see also *American Airlines, Inc. v. 胡雪 (Ni Cary)*, WIPO Case No. [D2023-3324](#))

Finally, the Panel finds that the disputed domain name, being identical to the Complainant's internationally well-known mark, carries a very high risk of implied affiliation and cannot constitute fair use, as it effectively impersonates the Complainant and its services or suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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 registration of the disputed domain name, which is identical to the Complainant's longstanding, internationally well-known and intensively used trademarks that have been registered decades before the registration date of the disputed domain name, by the Respondent, who is entirely unaffiliated with the Complainant, can by itself create a presumption of bad faith of the Respondent (see in this regard *Alain Affielou Franchiseur v. Lihongbo, Lihongbo*, WIPO Case No. [D2020-2075](#), and [WIPO Overview 3.0](#), section 3.1.4). The Panel also notes that even a cursory Internet search at the time of the registration of the disputed domain name would have made it clear to the Respondent that the Complainant owns prior rights in its trademarks for AMERICAN AIRLINES, including in China where the Respondent reportedly resides, and the Panel finds that the Respondent could not have been reasonably unaware of them. Based on the available record, the Panel accepts that the Respondent has registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the evidence of use of the website linked to the disputed domain name demonstrates that the Respondent is currently attempting to sell the disputed domain name for an amount obviously in excess of the Respondent's documented out-of-pocket costs related to the disputed domain name, i.e., a "Buy now" price of USD 8,888. The Panel notes that the disputed domain name has also been offered for sale through various other platforms for various other prices, for which the same assessment by the Panel applies. The above elements lead the Panel to conclude, on balance of the probabilities, that the Respondent is using the disputed domain name to try to sell it to the Complainant, who is the owner of the corresponding trademark for AMERICAN AIRLINES, or to competitors of the Complainant

and to obtain unjustified financial benefits through such sale. The Panel finds that this constitutes direct evidence of bad faith of the Respondent under paragraph 4(b)(i) of 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 <americanairlines.tech> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: September 10, 2024