

ADMINISTRATIVE PANEL DECISION

American Airlines, Inc. v. Carolina Rodrigues, Fundacion Comercio Electronico
Case No. D2024-2777

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 Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <americanairlinescente.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 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 9, 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 (Registration Private, Domains By Proxy, LLC) 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 an amended Complaint on July 18, 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 July 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 9, 2024.

The Center appointed Tobias Malte Müller as the sole panelist in this matter on August 20, 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

It results from the Complainant's undisputed allegations that the Complainant is one of the largest air carriers in the world serving over 360 destinations in nearly 50 countries, with nearly 7,000 daily flights together with its affiliates. On July 17, 2021, the American Airlines Center, a multi-purpose indoor arena, opened in downtown Dallas, Texas. The Complainant spent USD 195 million for the naming rights to this venue.

The Complainant is the registered owner of a vast worldwide portfolio of trademarks consisting of or containing in the terms AMERICAN AIRLINES marks, including in the United States and Panama, where the Respondent is purportedly located. The Complaint is based amongst others on the following trademarks:

- AMERICAN AIRLINES, U.S. registration no. 514294, registered on August 23, 1949; and
- AMERICAN AIRLINES, Panama registration no. 53214, registered on May 27, 1991.

The disputed domain name was registered on November 21, 2023. It diverts Internet traffic to a rotating group of third-party websites offering products/services unrelated to the Complainant, presumably in exchange for a referral commission.

The Respondent has also listed the disputed domain name for sale on the public auctioning website "sedo.com" for a minimum offer of USD 999.

Finally, it results from the Complainant's undisputed evidence that the disputed domain name has active MX (mail exchange) records.

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:

1. the disputed domain name that Respondent registered and is using, is confusingly similar to Complainant's marks;
2. the Respondent has no rights or legitimate interests in the disputed domain name. In particular, the Complainant has never authorized the Respondent to use its marks as part of the disputed domain name. Furthermore, the disputed domain name does not reflect the Respondent's common name or organization name. Finally, the disputed domain name and the content to which it leads enable the Respondent to collect fees associated with the redirected web traffic, through the underlying redirection services hosted by various monetization platforms;
3. the Respondent's registration and use of the disputed domain name constitutes – in the Complainant's view – bad faith under several aspects: The disputed domain names is listed for sale to the general public through the Sedo domain name marketplace. Furthermore, the Respondent has engaged in a pattern of prior bad faith registration of domain names utilizing well-known trademarks (in particular the Complainant's trademarks) in which the respondent has no rights or legitimate interests. Finally, the disputed domain name has been used to redirect Internet users to various revolving content and has active MX records, which were

not set up by default through the Registrar but rather actively set up on a separate provider to allow for the use of the disputed domain name for email correspondence.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to "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 requires the Complainant to prove each of the following three elements in order to obtain an order that the disputed domain name should be transferred or cancelled:

(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 is satisfied that the registrant of record for the disputed domain name is the Respondent and will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

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 entirety of the AMERICAN AIRLINES mark is reproduced within the disputed domain name. The mark is merely combined with the further verbal element "cente" at the end of the disputed domain name. However, the Panel finds the mark is easily 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.

Although the addition of other terms here, "cente", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

First, it results from the evidence provided by the Complainant that the disputed domain name diverts Internet traffic to a rotating group of third-party websites offering products/services unrelated to the Complainant, presumably in exchange for a referral commission. This Panel considers said commercial use as competing with or capitalizing on the reputation and goodwill of the Complainant's mark or otherwise mislead Internet users. It therefore considers such commercial use as not representing bona fide offering (pursuant to paragraph 4(c)(i) of the Policy). In addition, the Respondent did not submit any contemporaneous evidence of bona fide pre-Complaint preparations to use the disputed domain name. In particular, the Complainant's uncontested allegations demonstrate that it has not authorized the Respondent's use of its trademarks for registering the disputed domain name comprising which is confusingly similar.

Second, the Panel notes that there is no evidence in the record showing could lead the Panel to conclude that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

Finally, the Panel notes that there is no evidence in the record either showing that the Respondent might target a noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue pursuant to paragraph 4(c)(iii) of the Policy. In particular, the Panel is satisfied that the registered trademark AMERICAN AIRLINES is well known so that it is unlikely that the Respondent wanted to fairly use the disputed domain name containing these terms. Rather, given the additional element "cente", which is a misspelling of "center" and alludes to the Complainant's newly opened "American Airlines Center", the disputed domain name is likely to carry a risk of implied affiliation to the Complainant that the Respondent sought to capitalize upon. In addition, the disputed domain name is used, amongst others, for redirecting to a rotating group of third-party websites, so that a noncommercial use is excluded from the outset.

Consequently, and 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.

One of these circumstances is that the respondent has registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name to the complainant who is the owner of the trademark or service mark or to a competitor of the complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the disputed domain name (paragraph 4(b)(i) of the Policy).

It is the view of this Panel that the Respondent has actually registered the disputed domain name primarily for the purpose of selling it either to the Complainant or to third persons for valuable consideration in excess of the documented out-of-pocket costs directly related to the disputed domain name. It results from the Complainant's undisputed and documented allegations the Respondent is offering the disputed domain name for sale on the public auctioning website "sedo.com" for a minimum offer of USD 999. This Panel finds that such requested price is most likely in excess of any out-of-pocket costs directly related to the disputed domain name (see *T. Rowe Price Group, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-1955](#)).

In addition, this finding of bad faith registration and use is further supported by the further circumstances resulting from the case at hand, which are the following:

(i) the Respondent's failure to submit a response or to provide any evidence of actual or contemplated good faith use;

(ii) the creation of a domain name which exactly contains the trademark AMERICAN AIRLINES which indicates an intention on the part of the Respondent to confuse users;

(iii) the disputed domain name resolving to rotating commercial websites;

(iv) the Respondent having been involved previously in several other UDRP cases (in particular 10 proceedings related to the Complainant's marks), where the transfer of the disputed domain name has been ordered and bad faith being found (e.g., *American Airlines, Inc. v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2024-2696](#); *American Airlines, Inc. v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2023-5024](#));

(v) the fact that the disputed domain name has been connected to active MX records, which creates a risk that the Respondent might be engaged in an email phishing scheme; and

(vi) the Respondent originally hid her identity behind a proxy service.

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 <americanairlinescente.com> be transferred to the Complainant.

/Tobias Malte Müller/

Tobias Malte Müller

Sole Panelist

Date: September 3, 2024