

ADMINISTRATIVE PANEL DECISION

American Airlines, Inc. v. 陈文杰 (chen wen jie)
Case No. D2024-3882

1. The Parties

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

The Respondent is 陈文杰 (chen wen jie), China.

2. The Domain Name and Registrar

The disputed domain name <americianairlines.com> is registered with eName Technology Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on September 23, 2024. On September 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 25, 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 (Not Provided) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 27, 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 in English on October 2, 2024.

On September 25, 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 October 2, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 October 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 25, 2024.

The Center appointed Hong Yang as the sole panelist in this matter on October 30, 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 United States air carrier company with a history of more than 90 years. It served over 350 destinations in over 50 countries, with nearly 7,000 daily flights, and is allegedly the largest air carrier in the world. On social media, the Complainant has over 2.6 million followers on Facebook and 1.6 million followers on Twitter.

The Complainant is the proprietor of a portfolio of trademarks containing the wording AMERICAN AIRLINES, covering multiple jurisdictions, including the following: United States Trademark Registration No. 514294 for AMERICAN AIRLINES (Stylized), registered on August 23, 1949; European Union Trade Mark No. 000153726 for AMERICAN AIRLINES, registered on March 29, 1999; and, China Trademark Registration No. 779736 for AMERICAN AIRLINES, registered on March 21, 1995.

The Complainant owns domain name for the official website <americanairlines.com>, which redirects to <aa.com> where its primary website is hosted. That website has been ranked the number one website in the world in the category of Air Travel by the web analytics website "similarweb.com".

The disputed domain name was registered on November 28, 2010. The evidence submitted by the Complainant shows that, at the time of filing of the Complaint, the disputed domain name resolved to website pages with Pay-Per-Click ("PPC") links containing airline tickets and relevant services promotion information, which redirected to advertisements and website links purportedly from third-party providers of airline services such as ticketing and reservation.

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.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name 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 was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that: (1) the disputed domain name contains English words in Latin script rather than Chinese script; (2) the disputed domain name and the PPC links displayed under it are in English letters and words, suggesting that the Respondent is familiar with English language; (3) the Complainant has no familiarity with Chinese language. Conducting proceedings in Chinese would require translation and add unnecessary cost to the Complainant who already bears the cost of filing the Complaint, causing delay of the proceedings also.

The Respondent had, moreover, been notified by the Center, in both Chinese and English, of the language of the proceeding, and the deadline for filing a Response in Chinese or English. The Respondent did not make any specific submissions with respect to the language of the proceeding, nor did the Respondent file any Response.

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).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive Issues

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 for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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.

The disputed domain name incorporates the mark nearly in full, changing the mark only by switching the order of the letters "i" and "c" in "american". This is an obvious misspelling of the mark (i.e., typosquatting) and is still considered by panels to be confusingly similar to the relevant mark for purposes of the first element. [WIPO Overview 3.0](#), section 1.9.

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.

The Panel notes that the composition of the disputed domain name itself creates confusion, with misspelling difficult to notice, signaling the Respondent's intention to trade off the Complainant's mark. Further, available record shows that the Respondent is not affiliated or otherwise authorized by the Complainant or held any registration of the AMERICAN AIRLINES mark anywhere. There is no evidence indicating that the Respondent might be commonly known by the disputed domain name.

The disputed domain name resolved to a parked webpage comprising PPC links with sponsored information seemingly corresponded to the Complainant's typical business field. The PPC links contained airline service promotions and redirected to advertisements and third-party websites purportedly from the competitors of the Complainant. The Respondent has likely gained commercial revenues from such PPC links targeting the Complainant's highly reputational mark, and such use cannot constitute any legitimate noncommercial or fair use of the disputed domain name. 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. [WIPO Overview 3.0](#), section 2.9.

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 used, without any license or authorization the Complainant's trademark nearly in full (with only imperceptible typos) in the disputed domain name. The Complainant's trademark AMERICAN AIRLINES is highly reputational in its industry and the Complainant's registration and use of its mark well predates the Respondent's registration of the disputed domain name, including in the jurisdiction where the Respondent allegedly resided, so the Respondent knew or should have known of the Complainant's mark and apparently targeted its famous mark at the time of registering the disputed domain name. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4

Available record also shows that, PPC links on the Respondent's website under the disputed domain name relate to the Complainant's main field of business (i.e., airline services) and redirect Internet users to promotions and contents about those allegedly direct competitors of the Complainant, as well as their sponsored website link. The Panel is convinced that the Respondent targets the Complainant to attract Internet users to its website by creating a likelihood of confusion and intends to take unfair profits from the Complainant's famous AMERICAN AIRLINES mark. The disputed domain name was thus registered and used in bad faith, according to paragraph 4(b)(iv) of the Policy.

Further, available record shows that MX (Mail Exchange) records have been configured by the Respondent in connection with the disputed domain name, which further supports Panel's finding on bad faith.

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 <amercianairlines.com> be transferred to the Complainant.

/Hong Yang/

Hong Yang

Sole Panelist

Date: November 13, 2024