

## ADMINISTRATIVE PANEL DECISION

American Airlines, Inc. v. 罗亮(Liang Luo)

Case No. D2024-1073

### 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 罗亮(Liang Luo), China.

### 2. The Domain Name and Registrar

The disputed domain name <americanairlines.club> 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 March 11, 2024. On March 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 13, 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 March 14, 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 March 15, 2024.

On March 14, 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 March 15, 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 in Chinese and English of the Complaint, and the proceedings commenced on March 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 11, 2024.

The Center appointed Rachel Tan as the sole panelist in this matter on April 23, 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 an airline for business and leisure travelers and has been operating for over 90 years. The Complainant and its affiliates serve over 360 destinations in nearly 50 countries, with nearly 7,000 daily flights.

The Complainant is the owner of the AMERICAN AIRLINES trademark in different jurisdictions. For example, United States Registration No. 514294 for AMERICAN AIRLINES registered on August 23, 1949 in Class 39; Chinese Registration No. 616440 for AMERICAN AIRLINES registered on October 30, 1992 in Class 14 and International Registration No. 1266184 for AMERICAN AIRLINES registered on December 31, 2014 in Classes 35, 37, and 39.

The Complainant also owns the domain name <americanairlines.com> which was registered in 1998 and redirects to the Complainant's primary website at <aa.com>. The Complainant has used its AMERICAN AIRLINES mark on its websites.

The disputed domain name was registered on February 14, 2024. At the time of the Complaint, the disputed domain name resolved to a rotating group of third-party websites in English that are unrelated to the Complainant. At the time of this Decision, the disputed domain name resolved to a website that contains pay-per-click ("PPC") links. The website also currently includes a message button with the statement "This domain may be for sale". Upon clicking the button, it redirects Internet users to an online platform with an invitation to make an offer to purchase the disputed domain name.

#### **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 or confusingly similar to the Complainant's AMERICAN AIRLINES mark. The Complainant's AMERICAN AIRLINES mark is incorporated in the disputed domain name in full. The generic Top-Level Domain ("gTLD"), i.e., ".club" does not prevent a finding of confusing similarity but increases the likelihood of confusion based on the association of the word with the Complainant's Admirals Club lounges. The disputed domain name is also identical to the Complainant's website <americanairlines.com> other than the gTLD.

The Complainant further alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not been authorized, licensed or otherwise permitted by the Complainant to register and/or use the disputed domain name. Further, the Respondent has used the disputed domain name to divert Internet traffic to a rotating group of websites unrelated to Complainant, presumably in exchange for a referral commission. The Respondent has not operated any bona fide or legitimate business under the disputed domain name and is not making a noncommercial or fair use of the same. There is also no evidence that the Respondent is commonly known by the disputed domain name.

Finally, the Complainant argues that the disputed domain name was registered and used in bad faith. The disputed domain name was registered long after the use and registration of the Complainant's AMERICAN AIRLINES mark. The disputed domain name incorporates the Complainant's well-known mark in full and the Respondent is using it to intentionally attract Internet users to Respondent's website for the purposes of commercial gain, causing disruption of the Complainant's business and creating a likelihood of confusion regarding source, sponsorship, affiliation, or endorsement of the disputed domain name. Further, the Complainant claims that the disputed domain name has an active mail exchange record which evidences a likelihood of additional bad faith use of the disputed domain name e.g., through phishing or fraudulent email communications.

## **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 (i) the disputed domain name contains English words in Latin script; (ii) the disputed domain name contains the Complainant's AMERICAN AIRLINES mark which consists of English letters and is strongly associated with the Complainant's well-known airline based in the United States; and (iii) the Complainant's counsel has no familiarity with reading and writing in the Chinese language, conducting the proceedings in Chinese would add unnecessary cost to the Complainant and delay the proceedings.

The Respondent did not object to the Complainant's request or make any specific submissions with respect to the language of the proceeding.

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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Further, it is permissible for the Panel to disregard the applicable gTLD in the disputed domain name, i.e., “.club”. It is accepted by UDRP panels that the practice of disregarding the TLD in determining identity or confusing similarity is applied irrespective of the particular TLD (including with regard to “new gTLDs”) and the ordinary meaning ascribed to a particular TLD would not necessarily impact assessment to the first element. See [WIPO Overview 3.0](#), sections 1.11.1 and 1.11.2. See also *TikTok Ltd. v. Sanju Kumari*, WIPO Case No. [D2023-2186](#).

Based on the available record, 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 Respondent has not provided evidence of a legitimate or noncommercial use of the disputed domain name or reasons to justify the choice of the disputed domain name that is identical to the Complainant’s AMERICAN AIRLINES mark. There is also no indication to show that the Respondent is commonly known by the disputed domain name or otherwise has rights or legitimate interests in it. Moreover, the Complainant has not granted the Respondent any license or authorization to use the Complainant’s AMERICAN AIRLINES mark or register the disputed domain name.

Based on the undisputed evidence provided by the Complainant, the Panel notes that the disputed domain name previously resolved to a rotating group of websites that are unrelated to the Complainant. UDRP panels have previously found that use of a domain name with a redirection to a rotating series of third-party websites that are unrelated to the Complainant suggests that the Respondent did not register the disputed domain name for a legitimate or noncommercial purpose, but did so for commercial gain. See *Dayton Electric Manufacturing Co. v. Damon Nelson - Manager, Quantec, LLC / Novo Point, LLC*, WIPO Case No. [D2017-1667](#).

At the time of this Decision, the disputed domain name resolves to an active PPC webpage that lists out multiple third-party links. Prior UDRP 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 of goods or services 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. This is also reinforced by the fact that the Respondent is currently offering the disputed domain name for sale.

Lastly, the disputed domain name consists of the Complainant's AMERICAN AIRLINE mark entirely. The nature of the disputed domain name carries a high risk of implied affiliation which cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

None of the circumstances in paragraph 4(c) of the Policy are present in this case. For these reasons, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

Based on the available record, 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 well-known status of the Complainant's AMERICAN AIRLINES mark was recognized in *American Airlines, Inc. v. Domain Admin*, WIPO Case No. [D2023-3589](#); *American Airlines, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2021-1093](#). The disputed domain name was registered long after the registration of the Complainant's AMERICAN AIRLINES mark. Search results using the key words "american airlines" on Internet search engines direct Internet users to the Complainant and its business, which indicates that an exclusive connection between the AMERICAN AIRLINES mark and the Complainant has been established. As such, the Respondent either knew or should have known of the Complainant's AMERICAN AIRLINES mark when registering the disputed domain name, and has exercised "the kind of willful blindness that numerous panels have held support a finding of bad faith". See *Barclays Bank PLC v. Andrew Barnes*, WIPO Case No. [D2011-0874](#).

Furthermore, the Panel considers the mere registration of a domain name that is identical to a well-known trademark by an unaffiliated person can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), sections 3.1.4 and section 3.2.1.

The Panel notes that the disputed domain name previously resolved to a website to a rotating group of websites that are unrelated to the Complainant. The disputed domain name currently directs Internet users to a parking website where Internet users are presented with different third-party links of a commercial nature. Based on the above uses, the Panel is of the view that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website. This demonstrates bad faith registration and use of the disputed domain name, as provided in paragraph 4(b)(iv) of the Policy.

In addition, the disputed domain name is currently put on sale by the Respondent. Given the Respondent's lack of rights or legitimate interests in the disputed domain name, the Panel believes that the Respondent's intent in registering the disputed domain name was in fact to profit in some fashion from or otherwise exploit the Complainant's trademark. In this case, the Panel finds the sale of the disputed domain name serves as evidence of bad faith registration and use. [WIPO Overview 3.0](#), section 3.1.1.

The Panel also notes that the Respondent has set up MX records for the disputed domain name, indicating the possibility that the disputed domain name may be used for fraudulent email communication. See *Tetra Laval Holdings & Finance S.A. v. Himali Hewage*, WIPO Case No. [D2020-0472](#); *Altria Group, Inc. and Altria Group Distribution Company v. Emerson Terry*, WIPO Case No. [D2021-0045](#).

The Respondent has kept silent in the face of the Complainant's allegations of bad faith. Taking into account these circumstances, the Panel finds that the Respondent must have known of the Complainant before registering the disputed domain name and, considering the Respondent's lack of rights or legitimate interests, and by registering and using the disputed domain name as discussed above, the Panel is led to conclude that the disputed domain name was registered and is being used in bad faith.

Based on the available record, 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.club> be transferred to the Complainant.

*/Rachel Tan/*

**Rachel Tan**

Sole Panelist

Date: May 7, 2024