

## **ADMINISTRATIVE PANEL DECISION**

American Airlines, Inc. v. WhoisSecure / Neha Kaushik  
Case No. D2022-0319

### **1. The Parties**

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

Respondent is WhoisSecure, United States / Neha Kaushik, India.<sup>1</sup>

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

The disputed domain name <americanairlinesreservations-flights.com> is registered with OwnRegistrar, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 29, 2022. On January 31, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 31, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on February 2, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on February 5, 2022.

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 Respondent of the Complaint, and the proceedings commenced on February 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 7, 2022. Respondent did not submit any response. Accordingly, the Center

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<sup>1</sup> It is evident from the case file that WhoisSecure, United States, is a privacy protection service and that Neha Kaushik, India, is the underlying registrant of the disputed domain name. Therefore, unless otherwise indicated, the term “Respondent” is used by the Panel in the case at hand to refer to the latter underlying registrant only.

notified Respondent's default on March 8, 2022.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on March 14, 2022. 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**

Complainant is a company organized under the laws of the United States that is among the largest flight carriers in the world.

Complainant has provided evidence that it is since decades the registered owner of numerous trademarks worldwide relating to its company name and brand AMERICAN AIRLINES, *inter alia*, the following:

- Figurative word mark AMERICAN AIRLINES, United States Patent and Trademark Office (USPTO), registration number: 514,294, registration date: August 23, 1949, status: active;
- Word mark AMERICAN AIRLINES, Intellectual Property India, registration number: 3212526, registration date: November 7, 2016, status: active.
- Word mark AMERICAN AIRLINES, Intellectual Property India, registration number: 3669741, registration date: July 20, 2020, status: active.

Moreover, Complainant has demonstrated to own since 1998 the domain name <americanairlines.com>, which redirects to Complainant's main website at "www.americanairlines.com", used to promote Complainant's products and services in the airline industry worldwide.

Respondent, according to the disclosed Whois information for the disputed domain name, is a resident of India, who registered the disputed domain name on June 10, 2021. By the time of the rendering of this decision, the disputed domain name does not resolve to any active content on the Internet. Complainant, however, has evidenced that at some point before the filing of the Complaint, the disputed domain name resolved to a commercial website at "www.americanairlinesreservations-flights.com" which prominently displayed Complainant's AMERICAN AIRLINES trademark, and essentially impersonated Complainant for the obvious purpose of defrauding consumers into making unauthorized flight reservations under said website and thereby even adding unauthorized charges.

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

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that it enjoys reputation in the United States and internationally as a premier airline for business and leisure travelers, and that during its more than 90-years-history and due to continuous use and significant investments, Complainant's AMERICAN AIRLINES trademark has achieved worldwide fame and recognition.

Complainant submits that the disputed domain name is confusingly similar to Complainant's AMERICAN AIRLINES trademark, as it incorporates the latter in full, only added by the generic terms "reservations" and "flights" which directly describe Complainant's airline flight reservations services. Moreover, Complainant asserts that Respondent has no rights or legitimate interests in respect of the disputed domain name since (1) Respondent has registered the disputed domain name without any authorization by Complainant to do so, (2) Respondent is not commonly known by the disputed domain name, and (3) Respondent has never operated any *bona fide* or legitimate business under the disputed domain name, and is not making a noncommercial or fair use of it, but rather uses the disputed domain name to divert Internet traffic to a

website that prominently displays Complainant's famous AMERICAN AIRLINES trademark and that essentially impersonates Complainant, undoubtedly for the purpose of defrauding customers by adding unauthorized charges to their credit cards and/or offering competing flight reservations services. Finally, Complainant argues that Respondent has registered and is using the disputed domain name in bad faith since (1) it is obvious that Respondent at the time of the registration of the disputed domain name had actual knowledge of Complainant's business and related AMERICAN AIRLINES trademark, (2) Respondent uses the disputed domain name to run a website which not only prominently displays Complainant's famous AMERICAN AIRLINES trademark, but which offers overcharged services which customers will likely never receive, thereby stealing personal or company information for commercial gain, and finally (3) the disputed domain name has so-called "active MX (mail exchange)" which indicate use for email services and, thus, evidences a likelihood of additional bad faith use of the disputed domain name to engage e.g. in fraudulent email of phishing communications.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) that Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

Respondent's default in the case at hand does not automatically result in a decision in favor of Complainant, however, paragraph 5(f) of the Rules provides that if Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint. Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from Respondent's failure to submit a Response as it considers appropriate.

### **A. Identical or Confusingly Similar**

The Panel concludes that the disputed domain name is confusingly similar to the AMERICAN AIRLINES trademark in which Complainant has rights.

The disputed domain name incorporates Complainant's AMERICAN AIRLINES trademark in its entirety. Numerous UDRP panels have recognized that where a domain name incorporates a trademark in its entirety, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that trademark (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7). Moreover, it has been held in many UDRP decisions and has become a consensus view among panelists (see [WIPO Overview 3.0](#), section 1.8), that the addition of other terms (whether, e.g., descriptive, geographic or otherwise) would not prevent the finding of confusing similarity under the first element of the UDRP. Accordingly, the addition of the terms "reservations" and "flights" (which point to Complainant's core business) does not dispel the confusing similarity arising from the incorporation of Complainant's AMERICAN AIRLINES trademark in the disputed domain name.

Therefore, Complainant has established the first element under the Policy as set forth by paragraph 4(a)(i).

## **B. Rights or Legitimate Interests**

The Panel is further convinced on the basis of Complainant's undisputed contentions that Respondent has not made use of the disputed domain name in connection with a *bona fide* offering of goods or services, nor has Respondent been commonly known by the disputed domain name, nor can it be found that Respondent has made a legitimate noncommercial or fair use thereof without intent for commercial gain.

Respondent has not been authorized to use Complainant's AMERICAN AIRLINES trademark, either as a domain name or in any other way. Also, there is no reason to believe that Respondent's name somehow corresponds with the disputed domain name and Respondent does not appear to have any trademark rights associated with the terms "American Airlines" on its own. To the contrary, Respondent, at some point before the filing of the Complaint, obviously ran a website under the disputed domain name at "www.americanairlinesreservations-flights.com" which prominently displayed Complainant's AMERICAN AIRLINES trademark, and essentially impersonated Complainant for the obvious purpose of defrauding consumers into making unauthorized flight reservations with added unauthorized charges under said website, all of which is not only highly likely to confuse Internet users in a fraudulent manner into believing that Respondent's website is an official website run by Complainant itself, but the customers will most probably never receive the reserved flights, and still have given away sensitive personal or company information for Respondent's assumed commercial gain. Such making use of the disputed domain name neither qualifies as *bona fide* nor as legitimate noncommercial or fair within the meaning of the Policy.

Accordingly, Complainant has established a *prima facie* case that Respondent has no rights or legitimate interests in respect of the disputed domain name. Now, the burden of production shifts to Respondent to come forward with appropriate allegations or evidence demonstrating to the contrary (see [WIPO Overview 3.0](#), section 2.1). Given that Respondent has not submitted a Response, it has not met that burden.

Therefore, the Panel finds that Complainant has also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

## **C. Registered and Used in Bad Faith**

The Panel finally holds that the disputed domain name was registered and is being used by Respondent in bad faith.

The circumstances to this case leave no doubt that Respondent was fully aware of Complainant's rights in the AMERICAN AIRLINES trademark (notwithstanding its claimed worldwide reputation) when registering the disputed domain name and that the latter is clearly directed thereto. Moreover, using the disputed domain name, which is confusingly similar to Complainant's AMERICAN AIRLINES trademark, to run a website which at some point prominently displayed Complainant's AMERICAN AIRLINES trademark, and essentially impersonated Complainant for the obvious purpose of defrauding consumers into making unauthorized flight reservations with added unauthorized charges under said website, all of which is not only highly likely to confuse Internet users in a fraudulent manner into believing that Respondent's website is an official website run by Complainant itself, but the customers will most probably never receive the reserved flights, and still have given away sensitive personal or company information for Respondent's assumed commercial gain, is a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with Complainant's AMERICAN AIRLINES trademark as to the source, sponsorship, affiliation or endorsement of Respondent's website. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

In connection with this finding, it also carries weight in the eyes of the Panel that Respondent obviously provided false or incomplete contact information in the Whois register for the disputed domain name since, according to the email correspondence between the Center and the postal courier DHL, the Written Notice on the Notification of Complaint dated February 15, 2022, could not be delivered. This fact at least throws a light on Respondent's behavior which supports the Panel's bad faith finding.

Therefore, the Panel concludes that Complainant has also satisfied the third element under the Policy set forth by paragraph 4(a)(iii).

## **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 <americanairlinesreservations-flights.com> be transferred to Complainant.

*/Stephanie G. Hartung/*

**Stephanie G. Hartung**

Sole Panelist

Date: March 28, 2022