

ADMINISTRATIVE PANEL DECISION

American Airlines, Inc. v. Chris Rose, GEM
Case No. D2022-1224

1. The Parties

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

Respondent is Chris Rose, GEM, United States.

2. The Domain Name and Registrar

The disputed domain name <admiralsclubs.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 April 6, 2022. On April 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 7, 2022, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 April 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 3, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on May 4, 2022. The Center received an email communication from Respondent on May 4, 2022.

The Center appointed Brian J. Winterfeldt as the sole panelist in this matter on May 16, 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 American Airlines, Inc. (“American”) is the largest air carrier in the world, providing global services for business and leisure travel. Prior to the COVID-19 pandemic, American and its affiliates served over 350 destinations in over fifty countries, with nearly 7,000 daily flights. Founded in 1930, American has developed global name-recognition and operates the largest commercial fleet of aircraft in the world. For decades, American has continuously used its brands AMERICAN, AMERICAN AIRLINES, AA (an abbreviation of AMERICAN AIRLINES), and ADMIRALS CLUB both alone and in connection with other words and designs. American’s brands, trade names, and other intellectual property are the result of significant investment.

In 1939, American opened the airline industry’s first VIP lounge called the Admirals Club at LaGuardia Airport in New York. American has used ADMIRALS CLUB alone or in combination with designs in connection with business facilities, travel lounges, and numerous other goods and services.

Complainant owns several trademark registrations for the ADMIRALS CLUB mark and for marks containing the term ADMIRALS CLUB (the “Mark”) in multiple jurisdictions, with sample registration details as follows:

- ADMIRALS CLUB, United States Reg. No. 4,897,370, registered on February 9, 2016;
- ADMIRALS CLUB, United States Reg. No. 1,287,299, registered on July 24, 1984;
- ADMIRALS CLUB EXECUTIVE CENTER, United States Reg. No. 1,705,346, registered on August 4, 1992.

The oldest registration for the ADMIRALS CLUB mark dates back to 1938, over 80 years before Respondent registered the disputed domain name. American has continuously used the ADMIRALS CLUB mark for over 80 years. American has also owned and operated the <americanairlines.com> and <aa.com> domain names, which it has continuously used in commerce since 1998.

The disputed domain name was registered on November 23, 2015. Currently, the disputed domain name resolves to a parked webpage hosting third party links.

5. Parties’ Contentions

A. Complainant

According to Complainant, the disputed domain name is identical or confusingly similar to Complainant’s ADMIRALS CLUB trademark in which Complainant has rights as demonstrated through its cited registrations. The Mark was adopted and has been continuously used since at least as early as 1938 in connection with providing airline services. Complainant maintains its online presence through its websites hosted at its domain names <americanairlines.com> and <aa.com>.

Complainant argues that the disputed domain name fully incorporates the Mark. Complainant also argues that the addition of the letter “s” at the end of the Mark is clearly not sufficient to avoid a finding of confusing similarity with Complainant’s prior rights. Complainant argues that, due to the complete reproduction of Complainant’s company name and prior well-known trademarks, Internet users will obviously and wrongly think that the disputed domain name belongs to Complainant or has been registered in its name.

Complainant asserts that Respondent lacks any rights or legitimate interests in the disputed domain name. According to Complainant, Respondent does not have any trademark rights to the Mark, nor does Respondent make any *bona fide* offering of services on the website to which the disputed domain name resolves. Complainant alleges that Respondent is using the disputed domain name to divert Internet traffic to websites that contain pay-per-click (“PPC”) or affiliate advertising links which presumably generate affiliate

revenue for Respondent when they are clicked by Internet users. Complainant also asserts that it has not granted Respondent, by license or otherwise, permission to use the Mark in any way. Complainant argues that the disputed domain name was registered by Respondent without Complainant's consent.

Complainant argues that Respondent both registered and is using the disputed domain name in bad faith. According to Complainant, Respondent registered and used the disputed domain name intentionally in an attempt to attract Internet users to its website for financial gain by creating a likelihood of confusion with Complainant's trademark. Complainant argues that Respondent intends to attract Internet users and consumers looking for legitimate American services and/or authorized partners to Respondent's own webpage for Respondent's illicit commercial gain. Complainant argues that Respondent could not have been unaware of the existence of Complainant's famous trademarks and company name when registering the disputed domain name. Complainant argues that the mere fact that Respondent has registered the disputed domain name which incorporates the famous ADMIRALS CLUB mark belonging to the largest airline in the world is alone sufficient to give rise to an inference of bad faith. Complainant argues that such actions clearly show the disputed domain name was registered and is being used in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions. However, on May 4, 2022, after the due date to file a Response had lapsed, the Respondent sent a general query about the dispute to the Center.

6. Discussion and Findings

Under paragraphs 5(f) and 14(a) of the Rules, if a respondent does not submit a response, in the absence of exceptional circumstances, the panel shall proceed to a decision on the basis of the complaint.

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

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

A respondent's failure to rely to the complainant's contentions does not by itself satisfy a complainant's burden of proof and is not necessarily an admission that the complainant's allegations are true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). Thus, even though Respondent has failed to address Complainant's contentions, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence. See, e.g., *The Knot, Inc. v. In Knot We Trust LTD*, WIPO Case No. [D2006-0340](#).

A. Identical or Confusingly Similar

A national or international trademark registration is *prima facie* evidence that the holder has the requisite rights in the registered mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Complainant has provided evidence that it owns multiple trademark registrations for the ADMIRALS CLUB trademark as referenced above. Therefore, Complainant has established that it has rights in the Mark.

The remaining question under the first element of the Policy is whether the disputed domain name (typically disregarding the Top-Level Domain ("TLD") in which the domain name is registered) is identical or confusingly similar to Complainant's mark. It is well accepted that the first element functions primarily as a

standing requirement and that the 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. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. *Id.*

Here, the disputed domain name incorporates the entirety of the Mark, adding only the letter “s” to the end, which does not prevent a finding of confusing similarity. A side-by-side comparison of the Mark and the disputed domain name reveals that the Mark is easily identifiable within the disputed domain name.

Therefore, the Panel finds that Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its trademark rights and showing that the disputed domain name is confusingly similar to its ADMIRALS CLUB mark.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, Complainant must make at least a *prima facie* showing that Respondent possesses no rights or legitimate interests in the disputed domain name. See [WIPO Overview 3.0](#), section 2.1. Once Complainant makes such a *prima facie* showing, the burden of production shifts to Respondent, though the burden of proof always remains on Complainant. If Respondent fails to come forward with evidence showing rights or legitimate interests, Complainant will have sustained its burden under the second element of the UDRP.

Paragraph 4(c) of the Policy lists the ways that Respondent may demonstrate rights or legitimate interests in the disputed domain name:

- (i) before any notice of the dispute, Respondent’s use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if it has acquired no trademark or service mark rights; or
- (iii) Respondent is making a legitimate 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.

Here, Complainant has alleged that Respondent has no rights or legitimate interests in the disputed domain name. Respondent has failed to come forward with any evidence showing rights or legitimate interests. Respondent has not submitted any arguments or evidence to rebut Complainant’s contention that Respondent is not an assignee or licensee of Complainant and that Respondent has no other business relationship with Complainant. Complainant has contended that Respondent is not commonly known by the disputed domain name and that there is no evidence that Respondent has established trademark rights in the disputed domain name. Again, Respondent has not provided any evidence or arguments to demonstrate that it has such rights. Complainant has put forward a *prima facie* case that Respondent lacks rights or legitimate interests in the disputed domain name, which Respondent has not rebutted.

Accordingly, the Panel finds that Respondent does not have any rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Bad faith is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark. Paragraph 4(b) of the Policy provides that any one of the following non-exclusive scenarios constitutes evidence of a respondent’s bad faith:

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

(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

Here, Respondent's actions align with 4(b)(iv) of the Policy. The disputed domain name contains the entirety of the ADMIRALS CLUB mark, with the addition of the letter "s" to the end. Due to the well-known nature of Complainant's brand, evidenced by its numerous trademark registrations for ADMIRALS CLUB as well as global brand recognition provided by Complainant through its significant online presence, along with the unauthorized use of the Mark in the disputed domain name, Respondent was undoubtedly aware of Complainant and the Mark when it registered the disputed domain name. Moreover, in these circumstances it appears likely that the Respondent used the Mark in the disputed domain name to take unfair advantage of the reputation and goodwill of the Mark to promote click-through revenue through the dispute domain name.

This Panel therefore finds that Respondent acted in bad faith by its registration and use of the disputed domain name, intentionally creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of Respondent's website with the purpose of attracting Internet users for commercial gain as per paragraph 4(b)(iv) 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 <admiralsclubs.com> be transferred to Complainant.

/Brian J. Winterfeldt/

Brian J. Winterfeldt

Sole Panelist

Date: May 30, 2022