

ADMINISTRATIVE PANEL DECISION

American Airlines, Inc. v. Privacy service provided by Withheld for Privacy ehf / Bryan Taylor

Case No. D2022-2321

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 Privacy service provided by Withheld for Privacy ehf, Iceland / Bryan Taylor, India.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 27, 2022. On June 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 28, 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 the Complainant on June 29, 2022, 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 6, 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 the Respondent of the Complaint, and the proceedings commenced on July 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 28, 2022.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on August 1, 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

The Complainant is a leading international airline company providing services of travel and travel agency. It has been operating for more than 90 years. The Complainant owns many trademark registrations for AMERICAN AIRLINES such as:

- United States trademark registration No. 514,294, registered on August 23, 1949;
- United States trademark registration No. 1,845,693, registered on July 19, 1994.

The disputed domain name was registered on September 14, 2021. The disputed domain name resolves to an error page.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar or identical to a trademark or service mark in which the Complainant has rights. The Complainant's trademark, which is registered in many places around the world has been recognized by prior Panels as well known. The disputed domain name incorporates the Complainant's trademark removing the letter "s" and adding the term "flights", which describes the Complainant's services. It has been established that the addition of a generic term and the generic Top-Level-Domain ("gTLD") ".com" does not render the domain name distinct particularly when the generic term describes a complainant's business. In fact, the term "flights" increases the likelihood of confusion.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not authorized or licensed by the Complainant to use its trademark. The Respondent is not commonly known by the disputed domain name as the Whois information is redacted for privacy. The Respondent has not used or prepared to use the disputed domain name in connection with a *bona fide* offering of goods or services as there is no content on the website to which the disputed domain name resolves. This a case of passive holding. There is no legitimate noncommercial or fair use either.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. Passive holding, which is the case here, demonstrates bad faith. The Complainant's trademark is well known, which can be an inference of bad faith as the Respondent must have been aware of the Complainant's trademark. The Respondent may use an email address linked to the disputed domain name, since there are active mail exchange records for the disputed domain name, which can indicate possible use of the disputed domain name in fraudulent or phishing communication. The use of privacy service to shield the identity of the Respondent can also be an inference of bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant owns trademark registrations for AMERICAN AIRLINES. The Panel is satisfied that the Complainant has established its ownership of the trademark AMERICAN AIRLINES.

The disputed domain name incorporates the Complainant's trademark AMERICAN AIRLINES without the letter "s". This is in this respect a typical case of typosquatting, which does not prevent a finding of confusing similarity (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9).

AMERICAN AIRLINES is a trademark that is known internationally. It is established that the incorporation of a well-known trademark is sufficient to establish confusing similarity. The use of the additional term "flights" does not eliminate confusing similarity because the Complainant's trademark AMERICAN AIRLINES remains the core recognizable element in the disputed domain name. The gTLD ".com" should typically be ignored when assessing confusing similarity as established by prior UDRP decisions.

Consequently, the Panel finds that the disputed domain name is confusingly similar to the trademark of the Complainant and that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent does not have any rights or legitimate interests in the disputed domain name. Once such showing is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name.

In the instant case, the Complainant asserts that the Respondent is not affiliated with nor authorized by the Complainant to use its trademark. The Complainant further asserts that the Respondent is not using the disputed domain name for a legitimate noncommercial or fair use. Therefore, the Complainant has established a *prima facie* case and the burden of production shifts to the Respondent to show that it has rights or legitimate interests. The Respondent has not provided any evidence to show that it has any rights or legitimate interests in the disputed domain name.

The nature of the disputed domain name, incorporating a misspelling of the Complainant's well-known trademark and the addition of the related term "flights", carries a risk of implied affiliation and cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Respondent must have been aware of the Complainant's trademark when registering the disputed domain name, as AMERICAN AIRLINES is well known internationally and the trademark AMERICAN AIRLINES has been in use for over 90 years before the registration of the disputed domain name. Moreover, the disputed domain name contains a typo of the Complainant's trademark and typosquatting may be an indication of bad faith (*ESPN, Inc v. XC2*, WIPO Case No. [D2005-0444](#)).

The use of the terms "flights" reinforces the impression that the disputed domain name is affiliated with the Complainant. Registration of the disputed domain name with knowledge of the Complainant's trademark, and without rights or legitimate interests in the disputed domain name, amounts to registration in bad faith.

Additionally, an email service seems to be attached to the disputed domain name, which indicates that the Respondent might have plans for phishing or for scams.

The website to which the disputed domain name resolves is an error page. This may be a case of passive holding. Based on the submissions in the present proceeding and in the absence of any claims or evidence from the Respondent, the Panel is unable to determine any plausible good faith use of the disputed domain name that could be made by the Respondent. Furthermore, the Respondent's use of a privacy service in the above circumstances supports an inference of bad faith.

Such conduct falls within the concept of registration and use in bad faith of the Policy, and accordingly, the Panel finds that the Complainants have satisfied paragraph 4(a)(iii) 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, <american-airline-flights.com> be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: August 9, 2022