

## **ADMINISTRATIVE PANEL DECISION**

American Airlines, Inc. v. Carolina Rodrigues, Fundacion Comercio Electronico

Case No. D2022-4950

### **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 Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

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

The disputed domain name <americansirelines.com> (the “Disputed Domain Name”) 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 December 22, 2022. On December 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On December 27, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 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 January 3, 2023.

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 January 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 26, 2023.

The Center appointed Mariya Koval as the sole panelist in this matter on January 30, 2023. 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, founded in 1926, is the largest airline in the world and enjoys a reputation in the United States and internationally as a premier airline for business and leisure travelers. Prior to the Covid pandemic the Complainant and its regional partners and affiliates served over 350 destinations in over fifty countries, with nearly 7,000 daily flights. During its more than 90-year history, the Complainant has developed global name-recognition and goodwill, handling more than 200 million passengers annually with an average of more than 500,000 passengers daily. As of 2021, the Complainant employs 123,400 staff members. The Complainant also is a founding member of the Oneworld alliance, the third-largest airline alliance in the world.

The Complainant is the owner of numerous AMERICAN AIRLINES trademark (the AMERICAN AIRLINES Trademark) registrations in more than 75 countries throughout the world, among which are:

- United States Trademark Registration No. 514294, registered on August 23, 1949, in respect of services in class 39;
- United States Trademark Registration No. 1845693, registered on July 19, 1994, in respect of goods in class 25;
- Panama Trademark Registration No. 53214, registered on May 27, 1991, in respect of services in class 39;
- International Registration No. 1266184, registered on December 31, 2014, in respect of services in classes 35, 37, 39.

The Complainant operates the domain names <aa.com> and <americanairlines.com> since 1998, in addition to numerous other domain names incorporating the AMERICAN AIRLINES Trademark, where the Complainant not only features general information about airlines and traveling, but also allows customers to book travel reservations around the world, view, change and cancel travel reservations, check in for flights, and view flights status. According to the web analytics website "www.similarweb.com", the Complainant's website "www.aa.com" has been ranked the number one website in the world in the category of "Air Travel". The Complainant is also very active on social media and has over 2.6 million followers on Facebook and 1.6 million followers of Twitter.

The Disputed Domain Name was registered on August 27, 2022. At the date of this decision, the Disputed Domain Name redirects to different sites, some of them inactive, and some of them displaying alerts on possible infection of computer by viruses. According to the evidence submitted with the Complaint (Annex 11 to the Complaint), the Disputed Domain Name previously resolved to websites that contained pay-per-click or affiliate advertising links that redirect to websites that are competitive with the Complainant.

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

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

The Complainant asserts that its brands, trade names, and other intellectual property are the result of significant investment and worth billions of dollars.

The Complainant further asserts that the Disputed Domain Name is confusingly similar to the Complainant's AMERICAN AIRLINES Trademark in which it has established rights. The Disputed Domain Name reproduces the AMERICAN AIRLINES Trademark in its entirety, changing the Trademark only by substituting the letter "s" for the letter "a" in "airlines" and then the generic Top-Level Domain ("gTLD") ".com".

The Complainant claims that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name in view of the following:

- the Complainant has never authorized, licensed or consented to the Respondent's registration and/or use of the Disputed Domain Name which misappropriates and is confusingly similar to the Complainant's AMERICAN AIRLINES Trademark;
- the Respondent is not commonly known by the Disputed Domain Name;
- the Respondent has never operated any *bona fide* or legitimate business under the Disputed Domain Name, and is not making protected non-commercial or fair use of the Disputed Domain Name. Instead, the Respondent is generating revenue by using the Disputed Domain Name to divert Internet traffic to websites that contain pay-per-click or affiliate advertising links that redirect to websites that are competitive with the Complainant.

The Complainant further contends that the Respondent has registered and is using the Disputed Domain Name in bad faith. Long after the Complainant established its rights in its famous AMERICAN AIRLINES Trademark, and with knowledge of this Trademark, the Respondent acquired the confusingly similar Disputed Domain Name to divert Internet traffic intended for the Complainant to websites featuring advertising for goods and services through an affiliate advertising program.

In addition to the Respondent's obvious actual and inferred knowledge of the Complainant's AMERICAN AIRLINES Trademark, the Respondent had constructive knowledge of the AMERICAN AIRLINES Trademark because of the Complainant's Trademark registrations.

Additionally, the Disputed Domain Name has active MX (mail exchange) records, as shown in an MX records lookup. Those active MX records indicate use for email, which evidences a likelihood of additional bad-faith use of the Disputed Domain Name to engage in fraudulent email or phishing communications.

The Complainant is also not aware of any use of its AMERICAN AIRLINES Trademark in connection with air travel or air travel booking services, other than in connection with the Complainant. The Disputed Domain Name is so obviously connected with the Complainant and its services that its use by someone with no connection to the Complainant suggests opportunistic bad faith.

The Respondent also used a proxy service to register the Disputed Domain Name. Use of a privacy or proxy registration service to shield its identity and elude enforcement efforts by the Complainant demonstrates the Respondent's bad faith use and registration of the Disputed Domain Name.

Finally, the Respondent's pattern of prior bad faith registration of domain names utilizing well-known trademarks in which the Respondent has no rights or legitimate interests provides further evidence of the Respondent's bad faith registration and use of the Disputed Domain Name in this case. There are an astonishing number of prior UDRP Panel decisions under the Policy against the Respondent - over 200 total and over 80 in the past year alone - the vast majority of which concern the Respondent registering and using in bad faith domain names incorporating famous and well-known marks.

## **B. Respondent**

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

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, in order for the complainant to succeed it 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; and
- (ii) the 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. Identical or Confusingly Similar**

The Complainant has properly asserted its rights in the AMERICAN AIRLINES Trademark due to the long use and registrations worldwide.

The Disputed Domain Name resembles the Complainant's registered AMERICAN AIRLINES Trademark in its entirety with replacement of the letter "a" by the letter "s", addition of the letter "e" and the gTLD ".com". The Disputed Domain Name is a plain example of "typosquatting" when the spelling of a trademark has been minimally changed by one letter substitution. According to the section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), a domain name which consists of a common, obvious, or intentional misspelling of a trademark is normally considered by panels to be confusingly similar to the relevant mark for purposes of the first element.

It is also well established that the gTLD, in this case ".com", is disregarded for the purpose of determining identity or confusing similarity under the first element.

In light of the above, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's AMERICAN AIRLINES Trademark, and that the Complainant has established the first condition of paragraph 4(a) of the Policy.

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

The Complainant alleges that the Respondent has no rights or legitimate interests in the Disputed Domain Name pursuant to paragraph 4(a)(ii) of the Policy.

In accordance with section 2.1 of the [WIPO Overview 3.0](#) while the overall burden of proof in UDRP proceedings is on the Complainant, the Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests. If such *prima facie* case is made, the burden of production shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name. If the Respondent fails to come forward with such relevant evidence, the Complainant is generally deemed to have satisfied the second element.

Taking into account the facts and arguments set out above, the Panel finds that the Complainant has made a *prima facie* case. The Respondent registered the Disputed Domain Name more than seventy years after the AMERICAN AIRLINES Trademark had been registered. There is no evidence that the Respondent owns any "American airlines" mark, nor that it is commonly known by the Disputed Domain Name. Moreover, the Respondent has failed to come forward with any evidence to rebut such *prima facie* case.

Further, the Panel also accepts that the use of the Disputed Domain Name does not constitute a legitimate noncommercial or fair use. Namely, at the date of the Complaint the Disputed Domain Name resolved to websites containing pay-per-click or affiliate advertising links that redirected to websites competitive with the Complainant, and at the date of this Decision the Disputed Domain Name redirects to different sites, some of them inactive, and some of them displaying alerts on possible infection of computer by viruses. Moreover, according to the evidence presented by the Complainant (Annex 12 to the Complaint) the Disputed Domain Name has active MX records, which evidences a likelihood of additional bad-faith use of the Disputed Domain Name to engage in fraudulent email or phishing communications.

Also, given the typosquatting nature of the Disputed Domain Name, the construction of the Disputed Domain Name is likely to mislead or cause confusion, which was likely the main intent of the Respondent when registering the Disputed Domain Name, which cannot amount to fair use nor confer rights or legitimate interests upon the Respondent.

There is no evidence that the Respondent is commonly known by the Disputed Domain Name or any similar name. Moreover, the Respondent is, as the Complainant asserts (Annex 13 to the Complaint), a serial cybersquatter. The Panel has no reason to believe that this case is anything other than another case in large number of cases brought against the Respondent in respect of the unauthorized use for commercial purposes of well-known trademarks.

The Respondent did not file any response to the Complaint and did not participate in this proceeding, respectively, the Respondent did not present any evidence for supporting any rights or legitimate interests in the Disputed Domain Name.

In view of the foregoing, the Panel finds that the Respondent lacks rights or legitimate interests in the Disputed Domain Name and that the Complainant succeeds under the second element of paragraph 4(a) of the Policy.

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

The Panel comes to the conclusion that the Disputed Domain Name was registered and is being used in bad faith in view of the following. The Complainant obtained the registration of the AMERICAN AIRLINES Trademark almost seventy years earlier than the Respondent registered the Disputed Domain Name in 2022. Having considered that the Complainant's AMERICAN AIRLINES Trademark is globally well known, and that the Complainant has spent huge amounts and efforts for promotion of its AMERICAN AIRLINES Trademark, it is highly likely that the Respondent has been very well aware of the reputation of the AMERICAN AIRLINES Trademark when registering a confusingly similar Disputed Domain Name that completely incorporates the Complainant's Trademark. The Panel considers it is obvious bad faith that the Respondent deliberately chose the Disputed Domain Name to create a likelihood of confusion with the Complainant's AMERICAN AIRLINES Trademark so as to create a false association or affiliation with the Complainant.

Moreover, the Disputed Domain Name, incorporating the Complainant's AMERICAN AIRLINES Trademark in its entirety with intentional change of the letter "a" to "s" and addition of the letter "e", is clearly deceptive for Internet users with respect to the person rendering the services. This also indicates that the Respondent was well aware of the Complainant's AMERICAN AIRLINES Trademark when registering the Disputed Domain Name.

The Respondent obviously chose to register the Disputed Domain Name, which is a misspelling of the Complainant's AMERICAN AIRLINES Trademark, for the only purpose of attracting Internet users to the competing website by creating a likelihood of confusion with the Complainant's AMERICAN AIRLINES Trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's website and of the services offered on it.

In accordance with the [WIPO Overview 3.0](#), section 3.4, UDRP, Panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution (in some such cases, the respondent may host a copycat version of the complainant's website). Many such cases involve the respondent's use of the domain name to send deceptive emails, e.g., to obtain sensitive or confidential personal information from prospective job applicants, or to solicit payment of fraudulent invoices by the complainant's actual or prospective customers. Taking into account the Respondent's previous use of the Disputed Domain Name to resolve to a website containing pay-per-click or affiliate advertising links that redirected to websites that are competitive with the Complainant; as well as the current use, redirecting to some sites displaying alerts on possible infection of computer by viruses, such Respondent's behavior cannot be in any way considered as a good faith.

In addition, according to section 3.1.4 of the [WIPO Overview 3.0](#), UDRP 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. The Panel is of the opinion that it is clear that the Respondent, having registered and used the Disputed Domain Name, which is confusingly similar to the Complainant's well-known AMERICAN AIRLINES Trademark, intended to disrupt the Complainant's business and confuse Internet users seeking for or expecting the Complainant. In view of the absence of any evidence to the contrary and that the Respondent did not file any response to claim otherwise, the Panel concludes that the Respondent has registered and is using the Disputed Domain Name in bad faith.

Also, the Panel has found that the Respondent is a serial cybersquatter (*i.e.*, an individual who intentionally registers and uses domain names in bad faith for a commercial purpose) and that this case is part of that pattern.

Therefore, having examined all the circumstances of the case the Panel finds that the Respondent registered and is using the Disputed Domain Name in bad faith, and accordingly that the paragraph 4(a)(iii) of the Policy has been satisfied by the Complainant

## **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, <americansirelines.com>, be transferred to the Complainant.

*/Mariya Koval/*

**Mariya Koval**

Sole Panelist

Date: February 13, 2023