

ADMINISTRATIVE PANEL DECISION

Massachusetts Port Authority (“Massport”) v. Jay Taylor, Travel411.com, Inc.
Case No. D2023-0859

1. The Parties

The Complainant is Massachusetts Port Authority (“Massport”), United States of America (“United States”), represented by Greenberg Traurig, LLP, United States.

The Respondent is Jay Taylor, Travel411.com, Inc., United States.

2. The Domain Name and Registrar

The disputed domain name <loganinternationalairportboston.com> (the “Disputed Domain Name”) is registered with DNC Holdings, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 24, 2023. On February 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On March 2, 2023, 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 3, 2023, 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 March 9, 2023. The Complainant filed a second amended Complaint on March 14, 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 March 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 4, 2023. The Response was filed with the Center March 29, 2023.

The Center appointed Lynda M. Braun, Michael A. Albert, and the Hon Neil Brown KC as panelists in this matter on April 13, 2023. The Panel finds that it was properly constituted. Each member of 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 in this proceeding is the Massachusetts Port Authority (“Massport”), the owner and operator of the Boston Logan International Airport (the “Airport”). The Airport is the largest airport in New England and the only airport in Boston, Massachusetts.

The Complainant owns multiple registered trademarks related to the services of the Airport with the United States Patent and Trademark Office (“USPTO”), as follows: BOSTON LOGAN INTERNATIONAL AIRPORT, United States Trademark Registration No. 6,254,875, registered on January 26, 2021; BOSTONLOGAN, United States Trademark Registration No. 6,130,114, registered on August 18, 2020; and LOGAN, United States Trademark Registration No. 6,774,767, registered on June 28, 2022, all in International Class 39. The Complainant also claims common law rights in the trademarks BOSTON LOGAN AIRPORT and LOGAN AIRPORT since 1964 and maintains that the common law marks have acquired secondary meaning. The aforementioned trademarks will hereinafter collectively be referred to as the “LOGAN AIRPORT Mark”.

The LOGAN AIRPORT Mark is used in connection with the Complainant’s official website at “www.massport.com”. The website includes information about flight status, parking, maps of the airport, dining and shopping, and transportation.

The Disputed Domain Name, <loganinternationalairportboston.com>, was registered on March 27, 2015, and resolves to a website at “www.loganinternationalairportboston.com”. The website primarily provides information about hotels near the Airport, car rentals, and some tourist information about Boston, Massachusetts.

5. Parties’ Contentions

A. Complainant

Based on the Complainant’s registered and common law trademarks, the Complainant argues that it satisfied the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. The Complainant contends that the Disputed Domain Name is identical or confusingly similar to the LOGAN AIRPORT Mark. Moreover, the Complainant contends that the Respondent is not commonly known by the Disputed Domain Name, and that the Respondent is not affiliated with the Complainant in any way.

The Complainant also contends that the Respondent does not have rights or legitimate interests in the Disputed Domain Name as the Complainant has not authorized, licensed or otherwise permitted the Respondent to use its LOGAN AIRPORT Mark. The Complainant claims that the Respondent has not used the Disputed Domain Name in connection with a *bona fide* offering of goods or services since the Respondent’s purpose of owning the Disputed Domain Name is to receive revenue for pay-per-click hyperlinks on the Respondent’s resolving website and to profit from consumer confusion rather than provide useful information to consumers about the Airport. The Complainant argues that the Respondent’s website does not provide *bona fide* travel services because it contains some factually incorrect information about the Airport.

Finally, the Complainant argues that the Respondent has registered and is using the Disputed Domain Name in bad faith because the Respondent intended to profit from the Disputed Domain Name by including pay-per-click and sponsored links on its website. Further, the Complainant claims that the Respondent created a website that consumers would incorrectly assume was affiliated with or sponsored by the Complainant,

demonstrating bad faith.

B. Respondent

The Respondent has operated a travel agency services business in Florida in good faith for the past 21 years. The Respondent acquires clients through its <hotel411.com> business and since the year 2000 has attracted over 1,800 online visitors per year to Florida. A small percentage of visitors travel on to other cities nationwide and the Respondent provides websites for those locations according to the traveler's destination. The individual websites offer the names, online information and phone numbers of the Respondent's travel agents so that the clients can receive tourist and visitor information about the destination they choose. The websites are largely comprised of descriptive and/or geographic terms.¹

The Respondent registered the Disputed Domain Name <loganinternationalairportboston.com> on March 27, 2015, to provide hotels, car rentals, and tourist information to travelers whose destination is in the Boston, Massachusetts area, particularly near the Airport. The Respondent submits that its registration and use of the Disputed Domain Name is in connection with a bona fide offering of travel services. The Respondent refutes the Complainant's contention that the resolving website of the Disputed Domain Name is used for pay-per-click monetization.

The Respondent contends that the Disputed Domain Name is not identical or confusingly similar to the LOGAN AIRPORT Mark. Moreover, the Respondent argues that it has rights or legitimate interests in respect of the Disputed Domain Name as it is operating a legitimate travel services business and that the registration of the Disputed Domain Name occurred prior to the registration of the Complainant's LOGAN AIRPORT Mark. Thus, the Respondent claims that it is making a *bona fide* offering of tourist and travel services through its Disputed Domain Name.

In addition, the Respondent claims that the Complainant's LOGAN AIRPORT Mark is descriptive of a geographic location, which is not exclusively associated with the Complainant, and therefore, the Complainant does not have an exclusive monopoly on the words in the LOGAN AIRPORT Mark. The Respondent additionally contends that it did not register the Disputed Domain Name to prevent the Complainant from reflecting the Disputed Domain Name in a corresponding domain name, nor did the Respondent register the Disputed Domain Name with the intent to target the Complainant, or sell it to the Complainant, or any other individual or entity. The Respondent further contends that it did not register the Disputed Domain Name to disrupt the Complainant's business. Thus, the Respondent argues that based on the foregoing, it did not register and is not using the Disputed Domain Name in bad faith.

6. Discussion and Findings

In order for the Complainant to prevail and have the Disputed Domain Name cancelled,² the Complainant must prove the following (Policy, paragraph 4(a)):

- (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the 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.

¹ Examples of other domain names owned by the Respondent that are comprised of geographic or descriptive terms related to the travel industry include: <travelreservationdesk>, <airporthoteldiscounts.com>, <mostpopularhotels.com>, and <cheapautorentals.com>, among others.

² The Complainant has requested cancellation of the Disputed Domain Name as the remedy for prevailing in this proceeding.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a two-fold inquiry, a threshold investigation into whether a complainant has rights in a trademark, followed by an assessment of whether the disputed domain name is identical or confusingly similar to that trademark.

The Complainant has established rights in the LOGAN AIRPORT Mark based on its registered trademarks for the LOGAN AIRPORT Mark. The registration of a mark satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. As stated in section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "[w]here the complainant holds a nationally or regionally registered trademark or service mark, this *prima facie* satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case". Thus, the Panel finds that the Complainant satisfied the threshold requirement of having rights in the LOGAN AIRPORT Mark.

The Panel further finds that the Disputed Domain Name is confusingly similar to the LOGAN AIRPORT Mark insofar as the Disputed Domain Name contains the same four words that make up BOSTON LOGAN INTERNATIONAL AIRPORT, BOSTONLOGAN, LOGAN, BOSTON LOGAN AIRPORT, and LOGAN AIRPORT Marks, but in a different order, followed by the generic Top-Level Domain ("gTLD") ".com". The gTLD in the Disputed Domain Name is a technical requirement and thus, it is well established that such element may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#) and [WIPO Overview 3.0](#), section 1.11.1. Therefore, the Panel concludes that the Disputed Domain Name is confusingly similar to the Complainant's LOGAN AIRPORT Mark.

Accordingly, the Panel finds that the Complainant has established the first element of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Under the Policy, a complainant has to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the respondent carries the burden of production of evidence that demonstrates rights or legitimate interests in the disputed domain name.

The Panel is of the view that the Complainant failed to make the *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name under Policy paragraph 4(a)(ii), which would then have shifted the burden to the Respondent to show it does have rights or legitimate interests.

The Panel finds that the Respondent has demonstrated that it has rights or legitimate interests to register and use the Disputed Domain Name. The Respondent is making a *bona fide* offering of goods or services since the Respondent provides a *bona fide* offering of tourist and travel services through the Disputed Domain Name's resolving website. In particular, the Panel finds that the screenshots of the Respondent's website provided in the case materials indicate that they offer information about travel and tourism, demonstrating the Respondent's rights or legitimate interests in the Disputed Domain Name. The Respondent's website is predominantly a hotel and car rental booking site rather than an airport website per se. Moreover, since the Complainant has not demonstrated that the Disputed Domain Name was selected to create confusion and exploit the Complainant's LOGAN AIRPORT Mark, the Panel concludes that the Respondent has a legitimate interest in using the Disputed Domain Name. See *Mariah Media Inc. v. First Place Internet Inc.*, WIPO Case No. [D2006-1275](#). Significantly, the Respondent is using the Disputed Domain Name to advertise hotels near the Airport and has to reference the name of the Airport to do so. As such, the Respondent is using the Disputed Domain Name in a nominative sense and making a *bona fide* offering of travel services, as opposed to targeting the Complainant and the LOGAN AIRPORT Mark.

In addition, the Panel accepts that the Respondent acquired the Disputed Domain Name because of its value as a geographically descriptive phrase and there is no evidence presented that the Respondent has targeted the Complainant or its LOGAN AIRPORT Mark. See *Montane Ltd. v. Domain Hostmaster / Domain manager, Orion Global Assets*, WIPO Case No. [D2017-0309](#). Further, the Complainant does not have an exclusive monopoly on these descriptive and geographic terms. See *Broward County v. Travel411.com*, FA 1203001437387 (FORUM May 24, 2012).

The Respondent states, and the Panel acquiesces, that the Respondent has been operating in the travel services industry for over 21 years and has used the Disputed Domain Name to support and promote its business in the Airport area since its registration in 2015, prior to the Complainant's registration of the LOGAN AIRPORT Mark.

Accordingly, the Panel finds that the Complainant has failed to establish the second element of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Given the Panel's finding on the issue of rights or legitimate interests, it is unnecessary to consider the issue of bad faith registration and use. See *Lockheed Martin Corp. v. Skunkworx Custom Cycle*, WIPO Case No. [D2004-0824](#) (finding that the issue of bad faith registration and use was moot once the panel found that the respondent had rights or legitimate interests in the disputed domain name). However, the Panel considered the issue nevertheless, and in the view of the Panel, the Complainant has failed to establish that the Respondent registered and is using the Disputed Domain Name in bad faith, as explained below.

First, because the Respondent has rights or legitimate interests in the <loganinternationalairportboston.com> Disputed Domain Name pursuant to Policy paragraph 4(a)(ii), the Panel determines that the Respondent did not register or use the Disputed Domain Name in bad faith pursuant to Policy paragraph 4(a)(iii).

Second, the Panel concludes that bad faith cannot be shown when registration of the Disputed Domain Name predates the existence of the trademark rights asserted by the Complainant, as occurred here. The Complainant also claimed that it had common law trademark rights in a variety of terms equivalent to its registered trademarks and that it had held those rights by the time the Disputed Domain Name was registered. However, a common law trademark can only be established by evidence and the evidence submitted by the Complainant did not satisfy the Panel that such rights had been established, nor that they had existed before the Disputed Domain Name was registered. While Complainant points to its claimed date of first use of 1964, that claim is not itself evidence of such actual use.

Third, the Panel notes that the dominant elements of the LOGAN AIRPORT Mark are geographically descriptive and finds that the Respondent has a right to register and use the Disputed Domain Name to attract Internet traffic based on the appeal of commonly used geographic, descriptive or dictionary terms in the absence of circumstances indicating that the Respondent's aim in registering the Disputed Domain Name was to profit from and exploit the Complainant's trademark. See *Harvard Lampoon, Inc. v. Reflex Publishing Inc.*, WIPO Case No. [D2011-0716](#). The Complainant does not provide any proof indicating that the Respondent's motivation in registering the Disputed Domain Name was to target, profit from or exploit the Complainant's trademark. The Respondent, however, provides disclaimers on its website, particularly the one on the "Contact Us" page,³ to demonstrate to individuals arriving at the website that the website belongs to the Respondent, and not the Complainant. Therefore, the Panel concludes that the Respondent did not register and use the Disputed Domain Name in bad faith.

Finally, the Respondent's domain name portfolio, so far as it is reflected in the record in these proceedings, is limited to common words and combinations of words, and there is no evidence suggesting a pattern of abusive domain name registration, or any evidence showing bad faith registration and use of the Disputed

³ The disclaimer states in pertinent part: "This site is owned by Travel411 and Hotel411. . . . This site is used to promote tourism in the Boston, MA area and has no direct or indirect link with the organization in question (massport.com/logan-airport)."

Domain Name. Further, the words in the Disputed Domain Name appear in many other websites and domain names unrelated to the Complainant, as Respondent demonstrates. The Panel also finds that the Respondent has not violated any of the factors listed in Policy paragraph 4(b), nor has the Respondent engaged in any other conduct that would constitute bad faith registration and use pursuant to Policy paragraph 4(a)(iii).

Accordingly, the Panel finds that the Complainant has failed to establish the third element of paragraph 4(a) of the Policy.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Lynda M. Braun/
Lynda M. Braun
Presiding Panelist

/Michael A. Albert/
Michael A. Albert
Panelist

/The Hon Neil Brown KC/
The Hon Neil Brown KC
Panelist
Date: April 27, 2023