

## **ADMINISTRATIVE PANEL DECISION**

### **American Airlines, Inc. v. Christopher Tincher Case No. D2023-3331**

#### **1. The Parties**

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

The Respondent is Christopher Tincher, United States.

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

The disputed domain name <aairlines.travel> is registered with NameCheap, Inc. (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 2, 2023. On August 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 7, 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, Privacy Service Provided by Withheld for Privacy efh) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 7, 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 August 9, 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 August 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 3, 2023.

The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 4, 2023.

The Center appointed Nicolas Ulmer as the sole panelist in this matter on September 26, 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 is a large and well-known commercial air carrier operating in the US and internationally.

The Complainant owns numerous trademarks and service marks around the world including for AA, AMERICAN, and AMERICAN AIRLINES; specifically, the Complaint lists and documents 12 United States trademark registrations for AA, the earliest being trademark registration number 514,292, registered on August 23, 1949, and submits a long list of similar trademarks registered in other jurisdictions. The Complainant is also very active on the Internet, notably establishing its website at the domain name <aa.com> in 1998, and operating it continuously since then.

The disputed domain name was registered on July 18, 2023.

There is no website or content currently posted to the disputed domain name.

Little is known of the Respondent, Christopher Tincher, who did not respond to the Complaint. According to evidence of research carried out by the Complainant, the Respondent does not reside at the address listed in the registration documents for the disputed domain name.

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

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

The Complainant maintains that it has long-invested in its brand, trademarks, service marks and Internet presence and that its AA marks have achieved worldwide fame and recognition. According to the Complaint, the Complainant and its affiliates serve more than 350 destinations worldwide with nearly 7,000 flights per day.

The Complainant further contends that the disputed domain name is confusingly similar to its trademarks, and that the Respondent does not have permission to use its trademarks, and has no rights or legitimate interests in them.

It follows, according to the Complainant, that the Respondent can only have registered and used the disputed domain name in bad faith. The registration of the disputed domain name incorporating the Complainant's famous AA mark and any subsequent active or passive use thereof can only be in bad faith. Moreover, there is evidence of the disputed domain name being used for "phishing" in order to steal Internet users personal data. The Complainant claims that the lack of content at the disputed domain name is due to the removal of said content by the hosting provider since multiple browser providers, including Google and Microsoft, have identified the disputed domain name as being used for phishing to steal personal or financial information.

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

Further factual and legal contentions of the Complainant are discussed, as appropriate, in the Section 6 analysis, below.

## **B. Respondent**

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

## **6. Discussion and Findings**

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

The disputed domain name begins with and incorporates the Complainant's "AA" trademark in full; this alone has been held to constitute confusing similarity. See *Ok! Data Ams., Inc. v. ASD Inc.*, WIPO case [D2001-0903](#). In the disputed domain name the second letter "a" is also used as the beginning of the word "airline" and the word "travel" is appended after a period. Neither of these additions prevent confusing similarity, furthermore these terms are pertinent to the assessment of the second and third elements as noted below. See also, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.

It follows that the Complainant has proved confusing similarity within the meaning of paragraph 4(a)(I) of the Policy.

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

The Complainant asserts and explains in detail that it has not licensed or authorised the Respondent to use its trademarks in the disputed domain name or otherwise, and has no knowledge or belief that the Respondent has any rights or legitimate interest in the disputed domain name. Nothing in the Complaint indicates that the Respondent is commonly known by the disputed domain name.

There is furthermore no indication that the Respondent has used the disputed domain name in connection with a *bona fide* offering of goods and services, or that there is any legitimate noncommercial or fair use of the Complainant's trademark.

UDRP jurisprudence establishes that a complainant needs to set forth at least a *prima facie* case that the respondent has no rights or legitimate interests in respect of the disputed domain name, see *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#). Where such a *prima facie* case is made, the burden of production shifts to the respondent to demonstrate its rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant can be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See also, *Meizu Technology Co., Ltd. v. "osama bin laden"*, WIPO Case No. [DCO2014-0002](#); *H & M Hennes & Mauritz AB v. Simon Maufe, Akinsaya Odunayo Emmanuel and Nelson Rivaldo*, WIPO Case No. [D2014-0225](#).

In the instant case the Respondent has not responded to the Complaint; the Complainant has thus established at least such a *prima facie* case; and there is nothing in the case file that would rebut or contradict it. The Complainant has therefore met its burden of proof under paragraph 4(a)(ii) of the Policy.

The Panel also notes that the disputed domain name reproduces the Complainant's AA trademark in its entirety with the addition of the term "irlines", which forms "airlines" when read together with the second "a" from the Complainant's "AA" trademark. Further, the disputed domain name has been registered in the gTLD ".travel". These terms ("airlines" and "travel") are directly associated with the Complainant and its trademark, this both adds to the confusing similarity of the disputed domain name as found above, and falsely suggests affiliation with the Complainant which cannot confer rights or legitimate interests to the Respondent in respect of the disputed domain name.

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

The facts outlined above largely demonstrate bad faith on the part of the Respondent.

The registration of the disputed domain name that includes the Complainant's well-known trademark combined with terms that result in describing the nature ("airline") and purpose ("travel") of the Complainant's business can hardly be serendipitous and can here only be found to be in bad faith. The Panel here notes an analogous case involving the Complainant and the domain name <prefundsaa.com>. See, *American Airlines, Inc. v. Registration Private, Domains By Proxy, LLC / Online Resource, Online Resource Management Ltd.*, WIPO Case [D2021-3234](#) ("the Panel considers that the Respondent could not ignore the existence of the Complainant and of its trademark at the time of the registration of the disputed domain name. As a consequence, the Panel finds it unlikely that the disputed domain name was chosen independently without reference to the Complainant's trademark.")

It is moreover difficult to conceive what good faith use the Respondent could have made of the disputed domain name which appears deliberately chosen to create confusion with the Complainant's business and trademarks. This finding of bad faith is further supported by the evidence that the disputed domain name has been flagged by independent security vendors as being used for phishing, and by the Respondent's apparent submission of false contact information. The fact that the disputed domain name was, after being flagged for possible phishing, taken offline does not diminish this finding of bad faith use.

The Panel accordingly finds that the disputed domain name has to have been registered and used in bad faith within the meaning of 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 <aairlines.travel> be transferred to the Complainant.

*/Nicolas Ulmer/*

**Nicolas Ulmer**

Sole Panelist

Date: October 7, 2023