

ADMINISTRATIVE PANEL DECISION

American Airlines, Inc. v. Mary Smith

Case No. D2022-1512

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 Mary Smith, India.

2. The Domain Name and Registrar

The disputed domain name, <americanairlinesfl.com> (the “Domain Name”), is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 26, 2022. On April 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 27, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on May 11, 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 May 12, 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 May 16, 2022. In accordance with the Rules, paragraph 5, the due date for

Response was June 5, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 7, 2022.

The Center appointed Tony Willoughby as the sole panelist in this matter on June 24, 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.

The invitation to the Complainant to file an amended Complaint stemmed from the fact that the Domain Name was registered in the name of a privacy service. In response to the Center's registrar verification request, the Registrar disclosed the name and address of the entity in whose name the Domain Name is currently registered. The amended Complaint names the underlying registrant as the Respondent.

4. Factual Background

The Complainant is a well-established international airline with its headquarters in the United States and trading as "AMERICAN" and "AMERICAN AIRLINES". It is the registered proprietor of numerous trade mark registrations covering those names along with its AA logo. For present purposes it is sufficient to particularise one of those registrations taken at random from the extensive list exhibited by the Complainant: United States Trade Mark Registration No. 514,294 for AMERICAN AIRLINES registered on August 23, 1949 in class 39 for air transport of passengers and freight. Others of the Complainant's trade mark registrations for AMERICAN and AMERICAN AIRLINES between them cover a wide range of the goods and services provided by the Complainant under and by reference to those names.

The Domain Name was registered on August 4, 2021 and is not currently connected to an active website. As at the date of the Complaint it was connected to a Pay-Per Click parking page hosted by the Registrar featuring several links identifying the Complainant (e.g. "American Airlines Reservations" and "American Airlines Flights") and several generic links relating to airport parking, air miles and travel sites such as Expedia.

5. Parties' Contention

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to the Complainant's AMERICAN and AMERICAN AIRLINES trade mark registrations; that the Respondent has no rights or legitimate interests in respect of the Domain Name; and that the Domain Name has been registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

A. General

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the Domain Name, the Complainant must prove each of the following, namely that:

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

Complainant has rights: and

- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name: and
- (iii) the Domain Name has been registered and is being used in bad faith.

B. Identical or Confusingly Similar

The Domain Name comprises the Complainant's registered trade mark AMERICAN AIRLINES followed by the letters "f" and "l" and the generic Top Level Domain identifier ".com". The Panel is aware that "fl" is known as an abbreviation for the State of Florida in the United States. The Complainant asserts that it is also an abbreviation for "flight".

Section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)) explains the test for identity or confusing similarity under the first element of the Policy and includes the following passage:

"While each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing."

The Complainant's AMERICAN AIRLINES registered trade mark is readily recognizable in its entirety in the Domain Name. The Panel finds that the Domain Name is confusingly similar to a trade mark in which the Complainant has rights.

C. Rights or Legitimate Interests

The Complainant asserts that it has granted the Respondent no permission to use its AMERICAN and AMERICAN AIRLINES registered trade marks. It recites the circumstances set out in paragraph 4(c) of the Policy, any of which if found by the Panel to be present shall demonstrate rights or legitimate interests for the purposes of this element of the Policy, and contends that none of them is applicable. The Complainant contends that the Domain Name bears no relation to the Respondent's name, Mary Smith, and that the use made of the Domain Name is commercial and neither *bona fide* nor fair. The Respondent has been using the Domain Name to contain links that redirect to websites, some of them associated with the Complainant, but many of them being third party commercial websites and some of them competing with the Complainant.

The Panel accepts the Complainant's assertion that it has not authorized the Respondent's use of the AMERICAN and AMERICAN AIRLINES trade marks in this or any other way.

The Panel finds that the Respondent has made out a *prima facie* case under this element of the Policy; in other words, a case calling for an answer from the Respondent. The Respondent has not responded to the Complaint.

In the absence of any explanation from the Respondent for her adoption of the Domain Name in circumstances where she was clearly aware of the Complainant and the overwhelming likelihood being that the Complainant's contentions are well-founded, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name.

D. Registered and Used in Bad Faith

The Panel finds that the Respondent registered the Domain Name with knowledge of the Complainant's AMERICAN AIRLINES trade mark and with intent to use the reputation of that trade mark to attract Internet users to her pay-per-click website for commercial gain. While visitors to the Respondent's website will immediately realize that the website is not a website of or authorized by the Complainant, it is the view of the Panel that many of them will have visited the website in the erroneous belief that it is such a website. Having arrived at the website they are faced with a variety of advertising links, some to the Complainant and some to competitors of the Complainant. What all those links have in common is an opportunity for the Respondent to receive pay-per-click and/or other forms of advertising revenue on the back of the Complainant's reputation and goodwill.

The Panel finds that the Respondent registered the Domain Name for the purpose for which it is being used and thus that the Domain Name has been registered and is being used in bad faith within the meaning of paragraph 4(b)(iv) of the Policy. The fact that the objectionable use now appears to have ceased is of no moment and does not prevent a finding of bad faith use under the passive holding doctrine well established by numerous past UDRP decisions. In the view of the Panel, while the Domain Name remains in the hands of the Respondent, it represents a malicious threat hanging over the head of the Complainant and, as such, a continuing bad faith use of the Domain Name. See also section 3.3 of the [WIPO Overview 3.0](#).

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 Domain Name, <americanairlinesfl.com>, be transferred to the Complainant.

/Tony Willoughby/

Tony Willoughby

Sole Panelist

Date: June 25, 2022