

## **ADMINISTRATIVE PANEL DECISION**

**Air India Limited and Air India Express Limited v. Nanci Nette,  
Name Management Group  
Case No. D2022-5020**

### **1. The Parties**

The Complainants are Air India Limited, India, and Air India Express Limited, India, represented by Anand & Anand, India.

The Respondent is Nanci Nette, Name Management Group, United States of America.

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

The disputed domain name <airindiaexpress.com> is registered with Dynadot, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 29, 2022. On January 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 4, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on the same day, 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 6, 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 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 31, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 1, 2023.

The Center appointed Mihaela Maravela as the sole panelist in this matter on February 6, 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.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

#### **4. Factual Background**

According to information in the Complaint, Air India Limited (the "First Complainant") is the parent company of Air India Express Limited (the "Second Complainant"). The Complainants are headquartered in India and operate domestic flights within India and to locations across the globe.

The First Complainant has registered various trademarks consisting of AIR INDIA or AIR-INDIA, including the Indian trademark registration for AIR-INDIA No. 3718088, registered on January 3, 2018 and the Indian trademark registration for AIR INDIA (figurative) No. 2287748, registered on February 23, 2012. The Complainants operate their official websites at <airindia.in> and <airindiaexpress.in>, where customers can find details of the flights operated by the Complainants and book their flight tickets.

The disputed domain name was registered on August 3, 2018, and resolves to a parking page with pay-per-click ("PPC") links to third party service offerings in the field of air flights booking.

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

##### **A. Complainants**

The Complainants argue that the disputed domain name is identical to the well-known trademarks of the Complainants, as it incorporates the name and trademark of the Complainants in its entirety. The disputed domain name is also identical to the corporate names of the Complainants.

As regards the second element, the Complainants argue that the Complainants and the Respondent have no affiliation with each other, and that the Complainants have not licensed or authorized or endorsed the use of its famous and well-known trademarks AIR INDIA and AIR INDIA EXPRESS by the Respondent. The website at the disputed domain name leads to a shell webpage where the Respondent claims to be providing ticketing services for the Complainants' flights.

With respect to the third element, the Complainants argue that the Respondent was aware of the Complainants and their aviation related business under the trademarks AIR INDIA and AIR INDIA EXPRESS and knowing the same, the Respondent registered the disputed domain name with clear *mala fides* motive in mind. The Respondent has also restrained the Complainants from exercising their legitimate right of registering a domain name that incorporates their trademark / service mark. Such acts of the Respondent amount to domain name squatting.

##### **B. Respondent**

The Respondent did not reply to the Complainants' contentions.

## **6. Discussion and Findings**

### **6.1. Preliminary Matters**

No communication has been received from the Respondent in this case. The Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules and to draw inferences from the Respondent's failure to file any Response. While the Respondent's failure to file a Response does not automatically result in a decision in favor of the Complainants, the Panel may draw appropriate inferences from the Respondent's default.

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

### **6.2. Multiple Complainants**

The Complainants contend that the First Complainant, the owner of trademark registrations for AIR INDIA or AIR INDIA EXPRESS trademarks, is the parent company of the Second Complainant, that was permitted to use such trademarks. As such, the two entities have a sufficient common legal interest in the AIR INDIA or AIR INDIA EXPRESS trademarks included in the disputed domain name to file a joint Complaint. In addition, the Complainants have been the target of common conduct by the Respondent, who has engaged in bad faith registration and use of the disputed domain name comprising their trademarks.

According to section 4.11.1 of the [WIPO Overview 3.0](#), "[when] assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation".

The Second Complainant is a wholly owned subsidiary of the First Complainant; hence the co-Complainants have a common grievance against the Respondent, as they share common interests. In the circumstances, and absence of any objection on behalf of the Respondent, the Panel accepts the single consolidated Complaint against the Respondent, which it finds fair and equitable to all the parties and will accept both Complainants as party to the proceedings.

### **6.3. Substantive Matters**

Paragraph 4(a) of the Policy directs that the Complainants must prove each of the following elements:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainants have rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name was registered and is being used in bad faith.

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

The Complainants must establish that they have a trademark or service mark and that the disputed domain name is identical or confusingly similar to that trademark or service mark for the Complainants to succeed.

The Complainants have provided evidence of their rights in the AIR INDIA and AIR INDIA EXPRESS trademarks. As regards the question of identity or confusing similarity for the purpose of the Policy, it requires a comparison of the disputed domain name with the trademarks in which the Complainants hold

rights. The disputed domain name is confusingly similar to the Complainants' trademark AIR INDIA, which is reproduced in its entirety in the disputed domain name. The fact that a domain name wholly incorporates a complainant's trademark is sufficient to establish identity or confusing similarity for the purpose of the Policy, despite the addition of other words to such trademarks. The addition of another term (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

It is well accepted by UDRP panels that a generic Top-level-Domain, such as ".com", is typically ignored when assessing whether a domain name is identical or confusing similar to a trademark. See section 1.11 of the [WIPO Overview 3.0](#).

This Panel concludes that the Complainants have satisfied the requirement of paragraph 4(a)(i) of the Policy.

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

Under paragraph 4(a)(ii) of the Policy, the Complainants have the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

As established by previous UDRP panels, it is sufficient for the Complainants to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent to come forward with relevant evidence demonstrating its rights or legitimate interests in the disputed domain name (see section 2.1 of the [WIPO Overview 3.0](#)).

In the present case, the Complainants have established a *prima facie* case that they hold rights over the trademarks AIR INDIA and claim that the Respondent has no legitimate reason to acquire and use the disputed domain name.

There is no evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain name. Rather, according to the un rebutted evidence put forward by the Complainants, the disputed domain name is used to redirect to parked pages comprising PPC links to competing services. According to section 2.9 of the [WIPO Overview 3.0](#), "Applying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users". In this case, the PPC links are related to the Complainants' business and generate search results with competing services to those offered by the Complainants. In this Panel's view, such use does not amount to a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraphs 4(c)(i) and (iii) of the Policy.

Also, there is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

The Respondent has not replied to the Complainants' contentions, claiming any rights or legitimate interests in the disputed domain name.

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

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

According to paragraph 4(a)(iii) of the Policy, the Complainants must establish that the disputed domain name was registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith.

The disputed domain name was registered after the Complainants have obtained registration of their AIR INDIA trademarks and used them in commerce. The website associated with the disputed domain name contain PPC links related to the services offered by the Complainants. Under these circumstances, the Panel considers that the Respondent has registered the disputed domain name with knowledge of the Complainants and their trademarks and that it targeted those trademarks.

As regards the use of the disputed domain name, from the evidence put forward by the Complainants and not rebutted by the Respondent, it results that the disputed domain name redirects Internet traffic to a website displaying PPC advertisements for the Complainants-related services. Given the confusing similarity between the Complainants' trademarks and the disputed domain name, and that the PPC links operate for the commercial gain of the Respondent or of the operators of those linked websites, or both, the Panel considers that the disputed domain name is intended to attract Internet users by creating a likelihood of confusion with the Complainants' trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or other online location or of a service offered on such other online location within the terms of paragraph 4(b)(iv) of the Policy.

Moreover, the Respondent has not participated in these proceedings and has failed to rebut the Complainants' contentions and to provide any evidence of actual or contemplated good-faith use and indeed none would seem plausible.

Based on the evidence and circumstances of this case, the Panel concludes that the disputed domain name was registered and is being used in bad faith.

## **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, <airindiaexpress.com>, be transferred to the Second Complainant (Air India Express Limited).

*/Mihaela Maravela/*

**Mihaela Maravela**

Sole Panelist

Date: February 13, 2023