

## **ADMINISTRATIVE PANEL DECISION**

American Airlines, Inc. v. Andrew morrill, flybrix llc  
Case No. D2023-0635

### **1. The Parties**

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

Respondent is Andrew morrill, flybrix llc, United States.

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

The disputed domain name <americanairlinestickets.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 February 10, 2023. On February 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 14, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on February 20, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on February 23, 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 Respondent of the Complaint, and the proceedings commenced on February 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 19, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 20, 2023.

The Center appointed Maxim H. Waldbaum as the sole panelist in this matter on March 24, 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**

Complainant is a world famous airline with millions of passengers that it tickets and serves over 350 destinations in over fifty countries for business and leisure travelers, with over 7000 flights daily pre-COVID pandemic. Its global reputation from operating over 90 years, includes numerous trademarks and service marks under its name, including AA, AMERICAN, and AMERICAN AIRLINES (Complaint paragraph VI.A, and Annexes 9 and 10). Complainant owns and operates the domain names <americanairlines.com> and <aa.com>, where its primary website is hosted and which not only features general information about Complainant and travelling, but also allows customers to ticket travel reservations around the world, view, cancel and change ticketed reservations, check in for flights and view flight status. Complainant's investment in its business, brand and intellectual property is significant.

Screen captures of Complainant's web pages were submitted as Annex 6. According to the web analytics website "SimilarWeb.com" Complainant's website has been ranked the number one website in the world for Air Travel (Annex 7). In Complainant's very active social media and has over 2.6 million followers on Facebook and 1.6 million followers on Twitter (Annex 8).

Complainant's registration of trademarks includes United States trademark 514,294 for AMERICAN AIRLINES registered on August 23, 1949. According to Complainant, the usage of its trademark dates back to as early as April 1934.

Complainant also created its websites <americanairlines.com> and <aa.com> in 1998, which it has continually used in commerce since then.

The Disputed Domain Name was registered on May 29, 2022. At the time of filing the Complaint, the Disputed Domain Name resolved to a website that prominently displayed Complainant's trademark AMERICAN AIRLINES and stated "[c]all us to book new Flights Reservations make changes or cancel your Existing Flights".

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

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

1. The Disputed Domain Name is identical or confusingly similar to the trademark and service marks of Complainant.

The trademark registrations for AMERICAN and AMERICAN AIRLINES are presumptively valid where Respondent is located and around the world, demonstrating Complainant's rights around the world.

The Disputed Domain Name incorporates Complainant's mark in full, changing the mark only by adding the generic term "tickets" at the end, which directly describes Complainant's services, followed by the generic top-level domain ("gTLD") ".com". This fails to produce the Disputed Domain Name distinct from Complainant's marks.

The Disputed Domain Name is confusingly similar to Complainant's marks under the meaning of the Policy, paragraph 4(a)(i)..

2. Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

Without Complainant's authorization or consent Respondent registered the Disputed Domain Name, which misappropriates and is confusingly similar to Complainant's marks. Respondent is not commonly known by the Disputed Domain Name. Respondent has not used or prepared to use the Disputed Domain Name in connection with a *bona fide* offer of goods or services and has not been authorized or otherwise permitted by Complainant to register and/or use the Disputed Domain Name.

The pertinent Whois information identifies the registrant of the Disputed Domain Name as "Andrew morrill, flybrix llc", an additional indicator that Respondent is not commonly known as or by the Disputed Domain Name. Long after Complainant's rights were created and established Respondent registered the Disputed Domain Name without Complainant's authorization or consent.

Respondent has never operated any *bona fide* or legitimate business under the Disputed Domain Name, and is not making any protected non-commercial or fair use of the Disputed Domain Name. Instead Respondent is using the Disputed Domain Name to divert Internet traffic to a website that prominently displays Complainant's marks and states "[c]all us to book new Flight Reservations make changes or cancel your Existing Flights". Right above the text it states "American Airlines WE ARE HERE 24/7" and Respondent displays a phone number that is not the official phone number of Complainant, as well as prominently displaying a Complainant's plane at its home page. This is a clear attempt by Respondent to fraudulently engage in travel reservation transactions as Complainant and steal personal information from Complainant's consumers. Redirecting and diverting consumers from Complainant's legitimate business to a competing website is inherently misleading and cannot give rise to any legitimate use.

To Complainant's knowledge there are no other trademark registrations or applications in Respondent's name for any mark similar to those of Complainant in the entire world.

Respondent lacks rights or legitimate interests in the Disputed Domain Name within the meaning of the Policy paragraph 4(a)(ii).

3. The Disputed Domain Name was registered and is being used in bad faith.

Respondent has registered and used the Disputed Domain Name to host a website passing itself off as Complainant's website, pretending to be Complainant and engaging or attempting to engage in fraudulent transactions and at worst to steal valuable personal information from the accounts of Complainant's consumers. These activities fall squarely within examples of bad faith set forth in the Policy paragraph 4(b)(iv) and the cases cited by Complainant in paragraph VI.C in the Complaint. That the entire *modus operandi* of Respondent is fraudulent and establishes that the use of the Disputed Domain Name by Respondent is in bad faith. Respondent's actions bring the case within the provisions of paragraph 4(b)(iii) of the Policy: Respondent registered the Disputed Domain Name primarily for the purpose of disrupting the business of a competitor, namely Complainant. Registering and using email addresses to impersonate Complainant for commercial gain is evidence of bad faith registration and use of the Disputed Domain Name.

The mere fact that Respondent has registered the Disputed Domain Name which incorporates the famous AMERICAN and AMERICAN AIRLINES trademarks of Complainant is alone sufficient to give rise to an inference of bad faith. Indeed, in addition to actual and inferred knowledge of the famous Complainant's marks Respondent has constructive knowledge of such marks by reason of Complainant's registrations.

Complainant is not aware of any use of Complainant's marks in connection with air travel or air travel booking services, other than in connection with Complainant. The very use of these marks and services by Respondent, clearly suggests bad faith. Respondent also used a proxy service to register the Disputed Domain Name, (Annex 4), to shield its identity and elude enforcement efforts by Complainant, which also demonstrates bad faith use and registration of the Disputed Domain Name.

Respondent's conduct undoubtedly constitutes bad faith use and registration of the Disputed Domain Name under the Policy paragraph 4(a)(iii).

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

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

Respondent merely adds the term "tickets" to the AMERICAN AIRLINES marks of Complainant. Complainant's mark is recognizable within the Disputed Domain Name. The addition of other terms does not prevent a finding of confusing similarity between Complainant's mark and the Disputed Domain Name.

Respondent has not attempted to refute the demonstrated rights of Complainant to their *prima facie* evidence of validity of those rights and the marks of Complainant are presumptively inherently distinctive. *Janus Int'l Holding Co. v. Scott Rademacher*, WIPO Case No. [D2002-0201](#).

The requirements under the Policy, paragraph 4(a)(i), have been met. *American Airlines, Inc. v. Registration Private, Domains by Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2021-1093](#); *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#).

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

Complainant has set forth in detail its rights and legitimate interests in respect of the Disputed Domain Name. They are formidable. Respondent has been shown to have no such rights and just made an attempt at an illegal grab of famous and substantial intellectual property of Complainant. That is not a substitute for legitimacy. Respondent is not commonly known by the trademarks AMERICAN or AMERICAN AIRLINES or the Disputed Domain Name, but that did not stop Respondent from illegally taking those rights by preying on such fame and misleading the public as to the authenticity of the work ongoing by Complainant.

Impersonating a company in furtherance of a fraud is never countenanced. *American Airlines, Inc. v Ramadhir Singh, WhoisGuard Protected, WhoisGuard, Inc. / Reema Gupta, Ballu Balwant, Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Lucy Lionel, Lucy99, Red Keep*, Case No. [D2021-0294](#). No rights or legitimate interests come from generating commercial gain by intentionally and misleadingly divert users to a competing website. *Myspace, Inc. v. Mari Gomez*, WIPO Case No. [D2007-1231](#).

Complainant has not authorized, licensed, or consented to Respondent's registration and/or use of the Disputed Domain Name, incorporating Complainant's marks or any confusingly similar variation thereof. *Nokia Corp. v. Nokiagirls.com a.k.a IBCC*, WIPO Case No. [D2000-0102](#). Such fraudulent behavior meets this Policy requirement.

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

Respondent has registered and has used the Disputed Domain Name in bad faith. Respondent hosted a website passing itself off as a website of Complainant. The website pretends fraudulently to be that of Complainant (Annex11). That activity falls squarely within the explicit example of bad faith registration and use found in the Policy at paragraph 4(b)(iv), the obvious creation of a false association with Complainant. *Sony Kabushiki Kaisha (also trading as Sony Corporation) v. Inja, Kil*, WIPO Case No. [D2000-1409](#); *DaimlerChrysler Corp. v. Brad Bargman*, WIPO Case No. [D2000-0222](#). There is actual, inferred, and constructive knowledge by Respondent of its illicit activity.

Respondent was clearly aware of Complainant's rights in Complainant's well-known AMERICAN and AMERICAN AIRLINES marks when Respondent acquired the Disputed Domain Name, because Respondent incorporated such famous mark into and as part of the Disputed Domain Name. See, *supra*, *American Airlines, Inc. v. Ramadhir Singh, WhoisGuard Protected, WhoisGuard, Inc. / Reema Gupta, Ballu Balwant, Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Lucy Lionel, Lucy99, Red Keep*. Otherwise would be inconceivable. *Pfizer Inc. v. Papol Sugar*, WIPO Case No. [D2002-0187](#).

Complainant is not aware of any use of Complainant's marks in connection with air travel or air travel booking services, other than in connection with Complainant. Respondent's activity is clearly opportunistic bad faith. *The Elizabeth Taylor Cosmetics Company v. NOLDC, Inc*, WIPO Case No. [D2006-0800](#); *Research In Motion Limited v. Dustin Picov*, WIPO Case No. [D2001-0492](#).

Without question Respondent's activity/conduct constitutes bad faith registration and use of the Disputed Domain Name under Policy paragraph 4(b)(iv).

## 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 <americanairlinetickets.com> be transferred to Complainant.

*/Maxim H. Waldbaum/*

**Maxim H. Waldbaum**

Sole Panelist

Date: April 19, 2023