

ADMINISTRATIVE PANEL DECISION

American Airlines, Inc. v. sarbjit singh
Case No. D2023-3272

1. The Parties

The Complainant is American Airlines, Inc., United States of America, represented by Greenberg Traurig, LLP, United States of America.

The Respondent is sarbjit singh, India.

2. The Domain Name and Registrar

The disputed domain name <americanairlinescancellation.org> is registered with Squarespace Domains II LLC (the “Registrar”).¹

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 29, 2023. On July 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 31, 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 August 2, 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 8, 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”).

¹ The Complaint was filed identifying the Registrar as Google LLC. On September 29, 2023, Google LLC confirmed that the disputed domain name is registered with Squarespace Domains II LLC following a purchase agreement. Google LLC has confirmed both Registrars’ compliance with the UDRP and the implementation of the decision by either Registrar.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 29, 2023. Given that no Response was filed within the deadline above, the Center sent the Respondent a Notification of Respondent Default on August 30, 2023.

On August 31, 2023, the Center received an email communication from the Respondent. On the same date the Complainant made an unsolicited supplemental filing in reply to the Respondent's email.

The Center appointed Anna Carabelli as the sole panelist in this matter on September 12, 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 leading international airline company providing travel and transportation services, travel agency services, and travel reservation services. It has been operating for more than 90 years. The Complainant and its affiliates serve over 350 destinations in over 50 countries.

The Complainant owns many trademark registrations for AMERICAN AIRLINES in many jurisdictions, including United States, Canada, and India where the Respondent is purportedly located. The Complainant's oldest AMERICAN AIRLINES trademark registration dates back to 1949 (e.g., United States Trademark Registration Number 514,294 registered on August 23, 1949).

The Complainant also owns the domain name <americanairlines.com>, registered in 1998, which resolves to the Complainant's official website.

The disputed domain name was registered on May 22, 2023 and resolves to an error page.

5. Parties' Contentions

A. Complainant

The Complainant submits and contends that:

- the disputed domain name is confusingly similar to the Complainant's AMERICAN AIRLINES mark which is registered in many places around the world and has been recognized by prior Panels as well known. Indeed, the disputed domain name incorporates the Complainant's trademark with the addition of the term "cancellation", which describes the Complainant's services where consumers may cancel their airline reservations, and of the generic Top-Level-Domain ("gTLD") ".org".
- The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not authorized or licensed by the Complainant to use its trademark. The Respondent is not commonly known by the disputed domain name. The Respondent has not used or prepared to use the disputed domain name in connection with a *bona fide* offering of goods or services as there is no content on the website to which the disputed domain name resolves. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name either.
- The disputed domain name was registered and is being used in bad faith. The Complainant's trademark is well known, which can be an inference of bad faith as the Respondent must have been aware of the Complainant's trademark. Passive holding, which is the case here, demonstrates bad faith. The fact that when registering the disputed domain name, the Respondent employed a privacy service to hide his identity is also indicative of the Respondent's bad faith registration and use.

Based on the above, the Complainant requests that the disputed domain name be transferred to the Complainant.

B. Respondent

The Respondent did not file a formal Response. After the Response due date had passed, the Respondent sent an email communication to the Center stating the following: "I bought this domain name (americanairlinescancellation.org) to sell. So, if you want to purchase, let me know about it."

The Respondent's informal submission, which has been drawn to the Panel's attention, does not address the Complainant's allegations and contains no allegation/evidence to rebut them.

6. Discussion and Findings

6.1 Preliminary Issues - The Respondent's Late (informal) Response and the Complainant's Supplemental Filing

Before dealing with the merits, the first issue to be addressed is whether the Panel will consider the Respondent's late informal Response and the unsolicited supplemental filing subsequently made by the Complainant. Under the Rules, this kind of determination is solely within the discretion of the Panelist (see paragraph 10 (a), (d), of the Rules).

In the present case, the Panel sees no reason to consider the Respondent's late informal Response, which has no impact on the Panel's substantive considerations. Accordingly, the Panel will not take into account the Complainant's unsolicited supplemental filing either, which solely addressed the Respondent's late informal Response.

6.2 Substantive Issues

Paragraph 15(a) of the Rules instructs the panel to decide the complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the complainant must prove each of the following:

- (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 has been registered and is being used in bad faith.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the respondent, shall be evidence of the respondent's rights to or legitimate interests in a disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the trademark AMERICAN AIRLINES based on the evidence submitted in the Complaint.

The disputed domain name entirely incorporates the Complainant's mark and this is a sufficient element to establish confusing similarity, as held by previous UDRP panels (e.g., *Banca Mediolanum S.p.A. v. Domains By Proxy, LLC / Marzia Chiarello*, WIPO Case No. [D2020-1955](#); *Virgin Enterprises Limited v. Domains By Proxy LLC, Domainsbyproxy.com / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1923](#); *Patagonia, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-1409](#)).

The use of the additional term "cancellation" does not prevent confusing similarity because the Complainant's trademark AMERICAN AIRLINES remains recognizable in the disputed domain name (see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition - [WIPO Overview 3.0](#)).

The addition of the gTLD such as ".org" is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test (see section 1.11.1 of the Overview 3.0).

Consequently, the Panel finds that the disputed domain name is confusingly similar to the trademark of the Complainant and that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) before any notice to it of the dispute, its use of, or demonstrable preparation to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods and services;
- (ii) it has been commonly known by the domain name, even if it has acquired no trademark or service mark rights;
- (iii) it is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, based on the following: (a) the Complainant holds prior rights in the globally registered and well-known AMERICAN AIRLINES mark, (b) the Respondent has not been authorized to use the Complainant's trademark in any way, and is not commonly known by the disputed domain name (c) the disputed domain name does not resolve to an active website.

According to section 2.1 of the [WIPO Overview 3.0](#), while the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

Here, the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has failed to invoke any circumstance, which could have demonstrated any rights or legitimate interests in the disputed domain name under paragraph 4(c) of the Policy. There is no indication before the Panel of any activity in relation to the disputed domain name that would give rise to rights or legitimate interests to the Respondent. Moreover, the disputed domain name is confusingly similar to the Complainant's AMERICAN AIRLINES trademark and carries a risk of implied affiliation with the Complainant. Such a risk for implied affiliation cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

Therefore, the Panel finds that the Complainant has established paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered and is being used in bad faith. Paragraph 4(b) provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant.

The Complainant's AMERICAN AIRLINES trademark is well known internationally. Given the reputation of the Complainant's trademark - registration and use of which precede by far the registration of the disputed domain name - it is not conceivable that the Respondent did not have in mind the Complainant's trademark when registering the disputed domain name. Such fact suggests that the disputed domain name was registered in bad faith (see [WIPO Overview 3.0](#), section 3.2.2). Prior panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith ([WIPO Overview 3.0](#), section 3.1.4).

As to bad faith use, the evidence submitted with the Complaint shows that the disputed domain name does not point to an active website and resolves to an error page. The current inactive status of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. As stressed by many previous UDRP decisions, "While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the implausibility of any good faith use to which the domain name may be put." (See section 3.3 of the [WIPO Overview 3.0](#); *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

Each of these considerations points to the Respondent's passive holding of the disputed domain name being in bad faith. Specifically: (i) the Complainant's trademark is distinctive and well established; (ii) the Respondent has failed to submit any claims or evidence of good-faith use; (iii) the absence of any relationship between the Respondent and the Complainant; and, (iv) given the confusing similarity to the Complainant's trademark, there is no conceivable good faith use to which the disputed domain name could be put by the Respondent, that would not result in creating a misleading impression of association with the Complainant.

For all the above reasons, the Panel finds that the disputed domain name was registered and is being used in bad faith by the Respondent.

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, <americanairlinescancellation.org>, be transferred to the Complainant.

/Anna Carabelli/

Anna Carabelli

Sole Panelist

Date: September 25, 2023