

ADMINISTRATIVE PANEL DECISION

American Airlines, Inc. v. Smith, Sarah
Case No. D2023-5037

1. The Parties

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

The Respondent is Sarah Smith, USA.

2. The Domain Name and Registrar

The disputed domain name <americanairlinestravel.com> is registered with Register.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 1, 2023. On December 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 6, 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 (PERFECT PRIVACY, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 6, 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 December 7, 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 December 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 11, 2024.

The Center appointed Dennis A. Foster as the sole panelist in this matter on January 16, 2024. 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 American Airlines, Inc., a Delaware corporation organized in 1934 and located in Fort Worth, Texas, USA. The Complainant has an extensive USA and international network, and is referred to by some trade publications as the largest airline in the world.

The Complainant owns and operates the domain names <aa.com> and <americanairlines.com>. The latter domain name redirects to <aa.com> where the Complainant's primary website is hosted. The Complainant's websites feature general information about flying with the Complainant and allow customers to make reservations for travel around the world. The Complainant is also active on social media, with several million followers on Facebook and Twitter.

The Complainant owns multiple USA federal trademark registrations for AMERICAN AIRLINES including: registration no. 514,294 registered on August 23, 1949; registration no. 1,845,693 registered on July 19, 1994; and registration no. 5,279,167 registered on September 5, 2017.

In addition to the USA registrations, the Complainant owns trademark registrations incorporating its AMERICAN AIRLINES mark in over 75 countries.

The Respondent is an individual in the USA who registered the disputed domain name on October 16, 2023. The disputed domain name apparently has never been used for a website, but has MX records set up such that it may be for email communications.

5. Parties' Contentions

A. Complainant

The disputed domain name incorporates the Complainant's AMERICAN AIRLINES mark in full, changing the mark only by adding the term "travel", which directly describes the Complainant's airline and travel reservation services, and then adds the generic top-level domain ("gTLD") ".com".

Without the Complainant's authorization or consent, the Respondent registered the disputed domain name which misappropriates, and is confusingly similar to, the Complainant's AMERICAN and AMERICAN AIRLINES marks.

The Respondent is not commonly known by the disputed domain name, has not used or prepared to use the disputed domain name in connection with a bona fide offering of goods or services, and has not been authorized, licensed, or otherwise permitted by the Complainant to register or use the disputed domain name.

The Respondent's passive holding of the disputed domain name, which resolves to a parked web page, is an indication of bad faith registration and use.

The Complainant's marks have a strong reputation and are substantially used worldwide as well as in the USA where the disputed domain name is registered and where the Respondent is located.

In addition to the Respondent's actual knowledge of the Complainant's AMERICAN and AMERICAN AIRLINES marks, the Respondent had constructive knowledge of the AMERICAN and AMERICAN AIRLINES marks because of the Complainant's many USA and international trademark registrations.

The disputed domain name is so obviously connected with the Complainant and its services that its very use by someone with no connection to the Complainant is opportunistic bad faith.

The Respondent used a proxy service to register the disputed domain name. Use of a privacy or proxy registration service to shield the Respondent's identity and to elude enforcement efforts by the legitimate trademark owner demonstrates the Respondent's bad faith registration and use of the disputed domain name.

The disputed domain name should be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

The Policy, paragraph (a)(i), (ii), and (iii), provides that the Complainant may prevail in this proceeding and obtain transfer of the disputed domain name if the Complainant can prove that:

the domain name is identical or confusingly similar to a name in which the Complainant has trademark or service mark rights; and

the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

the Respondent registered and is using the disputed domain name in bad faith.

A. Identical or Confusingly Similar

It is well-accepted under the UDRP that the first element functions primarily as a standing requirement. The threshold test for confusing similarity involves a comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has shown the requisite rights in its AMERICAN AIRLINES trademark for the purposes of the Policy due to its numerous registered USA federal and international trademark registrations detailed supra. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Complainant's mark is contained in the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although there is the addition of the word "travel", this add-on does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's mark. [WIPO Overview 3.0](#), section 1.8. Also, it is well-settled under the Policy that gTLDs are not taken into account when assessing identity or confusing similarity because all domain names must have a gTLD.

The Panel thus finds that the Complainant has carried its burden of proof under Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which a respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult task of “proving a negative” and require information that is often primarily within the knowledge or control of a respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests in a disputed domain name, the burden of production on this element shifts to the respondent to come forward with evidence demonstrating rights or legitimate interests, but the burden of proof still remains on the complainant. If the respondent fails to come forward with such evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

In the present case, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name in that the Complainant asserts it has not given the Respondent any license or authorization to use the Complainant’s AMERICAN AIRLINES trademark in the disputed domain name.

The Respondent did not file a response, and thus has not come forward with any evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise. Nonetheless, as is common practice under the Policy, the Panel has perused the record for any information that might indicate the Respondent does have rights or legitimate interests in the disputed domain name. In doing so, the Panel would accept as true all reasonable or substantiated contentions of the Complainant.

The disputed domain name resolves to a parked Web.com page stating that “This Site Is Under Construction and Coming Soon”. Because Respondent is not currently using the disputed domain name for a website, Respondent is not using the domain name for a bona fide offering of goods or services pursuant to UDRP paragraph 4(c)(i) or a legitimate noncommercial or fair use under UDRP paragraph 4(c)(iii). See *Nilfisk-Advance A/S v. SC Getic Decor Srl*, [DRO2009-0007](#) (WIPO August 6, 2009); also *Perfetti van Melle S.p.A v. Web Worm Group Ltd*, [D2002-0467](#) (WIPO July 4, 2002).

Furthermore, there is no evidence in the record that the Respondent has ever been commonly known as the disputed domain name. Therefore, the Panel finds that the Respondent is not commonly known by the disputed domain name pursuant to Policy paragraph 4(c)(ii), and that this cannot support any claim to a right or legitimate interest in the disputed domain name.

Based on the foregoing, the Panel finds that the Respondent lacks rights or legitimate interests in the disputed domain name within the meaning of Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and is being used in bad faith, but additional circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that a Respondent’s non-use of a domain name may lead to a finding of bad faith under the doctrine of passive holding. Having reviewed the available record in this proceeding, the Panel finds the Respondent’s non-use of the disputed domain name does lead to a finding of bad faith registration and use. Factors that are generally considered to be relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or the 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 respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration

agreement). [WIPO Overview 3.0](#), section 3.3. In this proceeding, while all the foregoing factors are present, the Panel notes in particular the distinctiveness and fame of the Complainant's AMERICAN AIRLINES trademark and the composition of the disputed domain name, and finds that in the circumstances of this case the doctrine of passive holding no doubt applies and calls for a finding of bad faith under the Policy.

Although the disputed domain name does not resolve to content, the very fact that the Respondent has registered the disputed domain name incorporating the famous AMERICAN AIRLINES marks is alone sufficient for a finding of bad faith per the consensus of UDRP Panel decisions under similar factual premises. See, e.g., *American Airlines, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues et al.*, WIPO Case No. [D2021-1093](#) (May 25, 2021); *American Airlines, Inc. v. Ramadhir Singh, WhoisGuard Protected*; and *WhoisGuard, Inc. et al.*, WIPO Case No. [D2021-0294](#).

In similar cases, previous Panels have also found “opportunistic” bad faith and cybersquatting when domain names entirely incorporated the marks of well-known airlines. See, *Singapore Airlines Ltd. v. P & P Servicios de Comunicacion*, WIPO [D2000-0643](#).

For all the reasons above, the Panel finds that the Respondent's conduct is bad faith registration and use of the disputed domain name and that the Complainant has carried its burden of proof 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 <americanairlinestravel.com> be transferred to the Complainant.

/Dennis A. Foster/

Dennis A. Foster

Sole Panelist

Date: January 30, 2024