

## **ADMINISTRATIVE PANEL DECISION**

### **Aerovias Del Continente Americano S.A. – Avianca v. Gopi Kanna Case No. D2025-0493**

#### **1. The Parties**

The Complainant is Aerovias Del Continente Americano S.A. – Avianca, Colombia, represented by Dentons Cardenas & Cardenas Abogados Propiedad Intelectual S.A.S., Colombia.

The Respondent is Gopi Kanna, Singapore.

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

The disputed domain name <aviancawillkeeponflying.com> is registered with Network Solutions, LLC (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 6, 2025. On February 7, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 7, 2025, 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 (Unknown information / PERFECT PRIVACY, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 10, 2025, 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 February 18, 2025.

In accordance with the Rules, paragraphs 17, the proceedings were suspended upon the Complainant’s request on February 19, 2025 until March 21, 2025. The suspension of the proceedings was extended to April 8, 2025, and the proceedings were reinstituted on April 16, 2025.

The Center verified that the Complaint 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 April 17, 2025. In accordance with the Rules, paragraph 5, the due date for Response was May 7, 2025. The Respondent did not submit any formal response, but sent email communications to the Center on February 10, February 17, and February 19, 2025, as well as on April 16, April 20, and April 22, 2025.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on May 19, 2025. 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 the largest airline company in Colombia.

The Complainant owns numerous trademark registrations around the world, including the following:

- United States of America registration No. 731305, for AVIANCA, registered on May 8, 1962, in class 39;
- Colombia registration No. 61817.1, for AVIANCA, registered on June 23, 1976, in class 7; and
- Colombia registration No. 509518, for AVIANCA.COM., registered on April 30, 2015, in classes 35 and 39.

In addition, the Complainant claims that it owns the domain names <avianca.com>, registered in 2001, and <aviancacargo.com>, registered in 2006.

The Respondent in these proceedings is Gopi Kanna, from Singapore.

The disputed domain name was registered on May 9, 2020, and currently resolves to a parked page where it is offered for sale. The Complainant has provided evidence showing that the disputed domain name previously redirected to an online gaming page.

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

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

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

- the disputed domain name entirely reproduces its trademark AVIANCA and it is also confusingly similar to the Complainant's domain names <avianca.com> and <aviancacargo.com>, which is likely to cause confusion and association with the Complainant;
- the addition of the expression "will keep on flying" refers to the airline industry not by coincidence and seeks to take advantage of the reputation of the trademark AVIANCA;
- the Respondent lacks rights or legitimate interests in the registration and use of the disputed domain name and has not used it with a bona fide offering of goods or services;
- the disputed domain name is being offered for sale and until November 14, 2024, it resolved to an online gaming page;
- the Complainant's trademark rights were registered well before the registration of the disputed domain name;
- the trademark AVIANCA is globally known, and the Respondent was aware of the Complainant's rights when registered the disputed domain name;

Finally, the Complainant requests the transfer of the disputed domain name.

## **B. Respondent**

The Respondent did not send a formal response to the Complainant's contentions but sent several email communications to the Center informing of his intention to transfer the disputed domain name to the Complainant.

## **6. Discussion and Findings**

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to the trademarks or service marks in which the Complainant has rights;
- (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.

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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward 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 rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within 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 the addition of other terms here, "willkeeponflying", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the 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", 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Complainant has shown evidence indicating that the disputed domain name was redirected to an online gaming page and, after some period, it was offered for sale. This Panel notes that the disputed domain name is currently redirected again to an online gaming page. In this regard, the Panel notes that a respondent's use of a complainant's mark to redirect users would not support a claim to rights or legitimate interests. [WIPO Overview 3.0](#), section 2.5.3. Further, while aggregating and holding for resale domain names consisting of acronyms, dictionary words, or common phrases can be bona fide and is not per se illegitimate under the Policy, considering the Respondent's previous use of the disputed domain name and the lack of any substantive Response putting forward a legitimate non-infringing purpose, in the Panel's view, it is reasonable to infer that by offering the disputed domain name for sale the Respondent has intended to capitalize on the reputation and goodwill inherent in the Complainant's AVIANCA trademark. The Panel also notes the Respondent's statement that he was "willing to transfer the [disputed domain name] to the IP owner."

The Panel finds the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent was likely fully aware of the Complainant's trademarks and registered the disputed domain name for an undue commercial gain, trying to sell it after redirecting it to a gaming page.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other 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.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element of the Policy.

## **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 <aviancawillkeeponflying.com> be transferred to the Complainant.

*/Mario Soerensen Garcia/*

**Mario Soerensen Garcia**

Sole Panelist

Date: June 2, 2025.