

## **ADMINISTRATIVE PANEL DECISION**

American Airlines, Inc. v. Bob Phua  
Case No. D2022-0012

### **1. The Parties**

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

The Respondent is Bob Phua, Cambodia.

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

The disputed domain name <americanairlines-flights.org> (“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 January 4, 2022. On January 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 5, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on January 13, 2022 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 14, 2022.

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 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 17, 2022.

The Center appointed Nicholas Smith as the sole panelist in this matter on February 23, 2022. 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 United States company and one of the largest air carriers in the world. Prior to the Covid-19 pandemic the Complainant and its affiliates served over 350 destinations in 50 countries with approximately 7,000 daily flights.

The Complainant holds a number of registered trade marks for the words AMERICAN AIRLINES (the "AMERICAN AIRLINES Mark") in jurisdictions around the world including United States trade mark registration number 0514294 registered on August 23, 1949 (with a date of first use in 1934) for services in class 39.

The Domain Name was registered on May 25, 2020. The Domain Name resolves to a website (the "Respondent's Website") that reproduces the AMERICAN AIRLINES Mark and offers advertisements and referral links (for which the Respondent would presumably receive revenue) linked to a variety of third party gambling websites.

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

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

The Complainant makes the following contentions:

- (i) the Domain Name is identical or confusingly similar to the Complainant's AMERICAN AIRLINES Mark;
- (ii) the Respondent has no rights nor any legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

The Complainant is the owner of the AMERICAN AIRLINES Mark having registered the AMERICAN AIRLINES Mark in the United States and various jurisdictions around the world. The Domain Name is confusingly similar to the AMERICAN AIRLINES Mark since it adds the descriptive term "-flights" to the wholly incorporated AMERICAN AIRLINES Mark.

There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the AMERICAN AIRLINES Mark. The Respondent does not use the Domain Name for a *bona fide* purpose or a legitimate noncommercial use. Rather the Domain Name resolves to a page with text and links to gambling websites, which does not provide the Respondent with rights or legitimate interests.

The Domain Name was registered and is being used in bad faith. Given the reputation of the AMERICAN AIRLINES Mark, the registration of the Domain Name can only be taken as an attempt by the Respondent to gain an unfair benefit from the Complainant's reputation. The Respondent is using the Domain Name for a site offering advertisements for third party gambling sites which amounts to bad faith use.

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

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

To prove this element the Complainant must have trade or service mark rights and the Domain Name must be identical or confusingly similar to the Complainant's trade or service mark.

The Complainant is the owner of the AMERICAN AIRLINES Mark, having registrations for the AMERICAN AIRLINES Mark as a trade mark in the United States and other jurisdictions.

Disregarding the ".org" generic Top-Level Domain ("gTLD") as a necessary technical requirement of the Domain Name, the Domain Name is confusingly similar to the AMERICAN AIRLINES Mark since it wholly incorporates the AMERICAN AIRLINES Mark and adds the term "-flights". The addition of other terms to a complainant's mark does not prevent a finding of confusing similarity; see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Consequently, the requirement of paragraph 4(a)(i) of the Policy is satisfied.

### B. Rights or Legitimate Interests

To succeed on this element, a complainant must make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. If such a *prima facie* case is made out, then the burden of production shifts to the respondent to demonstrate rights or legitimate interests in the domain name.

Paragraph 4(c) of the Policy enumerates several ways in which a respondent may demonstrate rights or legitimate interests in a domain name:

"Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are 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 Respondent is not affiliated with the Complainant in any way. The Respondent has not been authorized by the Complainant to register or use the Domain Name or to seek the registration of any domain name incorporating the AMERICAN AIRLINES Mark or a mark similar to the AMERICAN AIRLINES Mark. There is no evidence that the Respondent is commonly known by the Domain Name or any similar name. There is no evidence that the Respondent has used or made demonstrable preparations to use the Domain Name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods and services; the use of the Domain Name for what appears to be a page consisting of referral links to gambling websites does not amount to use for a *bona fide* offering of goods and services in the circumstances of this case.

The Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has had the opportunity to put on evidence of its rights or legitimate interests, including submissions as to why its conduct amounts to a right or legitimate interest in the Domain Name under the Policy. In the absence of such a Response, the Panel finds that the Respondent has no

rights or legitimate interests in respect of the Domain Name under paragraph 4(a)(ii) of the Policy.

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

For the purposes of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to the Complainant who is the owner of the trade mark or service mark or to a competitor of the Complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the Domain Name; or
- (ii) the Respondent has registered the Domain Name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or
- (iii) the Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location. (Policy, paragraph 4(b)).

The Panel finds that the Respondent must have been aware of the Complainant and its reputation in the AMERICAN AIRLINES Mark at the time the Respondent acquired the Domain Name. The AMERICAN AIRLINES Mark has been in use by the Complainant for more than 90 years and the Complainant is a very well-known entity. The Respondent's Website prominently reproduces the AMERICAN AIRLINES Mark in connection with the offering of links to unrelated gambling service providers. The Respondent has provided no explanation, and none is immediately obvious, why an entity would register a domain name containing the AMERICAN AIRLINES Mark and redirect it to website containing gambling advertising links unless there was an awareness of and an intention to create a likelihood of confusion with the Complainant and its AMERICAN AIRLINES Mark. In these circumstances, the Respondent's conduct in registering the Domain Name when it was aware of the Complainant's rights and lack of rights or legitimate interests of its own amounts to registration in bad faith.

The Respondent's Website offers what appear to be referral links for which the Respondent will most likely receive some commercial gain. In these circumstances where the Respondent has offered no plausible explanation for the registration of the Domain Name, the Panel finds that the Respondent is using the Domain Name to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the AMERICAN AIRLINES Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's Website. As such the Panel finds that the Domain Name is being used in bad faith.

Accordingly, the Panel finds that the Respondent has registered and is using the Domain Name in bad faith under paragraph 4(a)(iii) 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 Domain Name, <americanairlines-flights.org> be transferred to the Complainant.

*/Nicholas Smith/*

**Nicholas Smith**

Sole Panelist

Date: March 2, 2022