

Decision for dispute CAC-UDRP-104487

Case number	CAC-UDRP-104487
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Time of filing	2022-04-11 08:42:15
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Domain names	eutelsat.com
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Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	EUTELSAT S.A.
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Organization	cj mayer
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OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant has evidenced to be the registered owner of the following trademarks relating to its company name and brand EUTELSAT:

- Word mark EUTELSAT, International Registration (WIPO), registration No.: 479499, registration date: June 6, 1983, status: active;

- Word mark EUTELSAT, International Registration (WIPO), registration No.: 777505, registration date: December 31, 2001, status: active.

Moreover, the Complainant has demonstrated to own since March 21, 2022 the domain name <eutelsat.com>, which resolves to the Complainant's main website at "www.eutelsat.com", used to promote the Complainant's services in the broadcasting industry.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant provided references to several prior panel decisions related to the issues of this proceeding:

- WIPO Jurisprudential Overview 3.0, 1.9 ("A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.").
- Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com> ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy 4(c)(ii).");
- Forum Case No. FA 699652, The Braun Corporation v. Wayne Loney;
- Forum Case No. 1597465, The Hackett Group, Inc. v. Brian Hems / The Hackett Group ("The Panel agrees that typosquatting is occurring, and finds this is additional evidence that Respondent has no rights or legitimate interests under Policy 4(a)(ii).");
- Forum Case No. FA 970871, Vance Int'l, Inc. v. Abend (concluding that the operation of a pay-per-click website at a confusingly similar domain name does not represent a bona fide offering of goods or services or a legitimate noncommercial or fair use, regardless of whether or not the links resolve to competing or unrelated websites or if the respondent is itself commercially profiting from the click-through fees);
- WIPO Case No. D2007-1695, Mayflower Transit LLC v. Domains by Proxy Inc./Yariv Moshe ("Respondent's use of a domain name confusingly similar to Complainant's trademark for the purpose of offering sponsored links does not of itself qualify as a bona fide use.");
- Forum Case No. FA 877979, Microsoft Corporation v. Domain Registration Philippines ("In addition, Respondent's misspelling of Complainant's MICROSOFT mark in the <microsoft.com> domain name indicates that Respondent is typosquatting, which is a further indication of bad faith registration and use pursuant to Policy 4(a)(iii).");
- WIPO Case No. D2018-0497, StudioCanal v. Registration Private, Domains By Proxy, LLC / Sudjam Admin, Sudjam LLC ("In that circumstance, whether the commercial gain from misled Internet users is gained by the Respondent or by the Registrar (or by another third party), it remains that the Respondent controls and cannot (absent some special circumstance) disclaim responsibility for, the content appearing on the website to which the disputed domain name resolve [...] so the Panel presumes that the Respondent has allowed the disputed domain name to be used with the intent to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, affiliation, or endorsement of the Respondent's website to which the disputed domain name resolves. Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith.").

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The Panel finds that the disputed domain name is confusingly similar to the EUTELSAT trademark in which the Complainant has rights.

The disputed domain name incorporates the EUTELSAT trademark entirely, however in a misspelled/typo-squatted version caused by adding a letter “u”. Numerous UDRP panels have recognized that incorporating a trademark in its entirety can be sufficient to establish that the disputed domain name is at least confusingly similar to a registered trademark. Moreover, it has been held in many UDRP decisions and has meanwhile become a consensus view among UDRP panels that a domain name which consists of a common, obvious or intentional misspelling of the complainant’s trademark (i.e. a typo-squatting) is still considered to be confusingly similar to the relevant trademark for purposes of the first element under the UDRP. Accordingly, the fact that the disputed domain name obviously includes an intentional misspelling/typo-squatting of the Complainant’s EUTELSAT trademark is not at all inconsistent with the finding of confusing similarity, especially given the fact that the Complainant’s EUTELSAT trademark is still at least recognizable within the disputed domain name.

Therefore, the Complainant has established the first element under the Policy as set forth by paragraph 4(a)(i).

Moreover, the Complainant contends, and the Respondent has not objected to these contentions, that the Respondent has neither made use, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor is the Respondent making a legitimate noncommercial or fair use of the disputed domain name, nor is the Respondent commonly known thereunder.

The Respondent has not been authorized to use Complainant’s EUTELSAT trademark, either as a domain name or in any other way. Also, there is no reason to believe that the Respondent’s name somehow corresponds with the disputed domain name and the Respondent does not appear to have any trademark rights associated with the term “Eutelsat” whatsoever. In addition, the Complainant has provided evidence that at some point before the filing of this Complaint the disputed domain name redirected to a standard Pay-Per-Click (PPC) website with hyperlinks to a variety of third parties’ websites, many of which are presumably of commercial nature. UDRP panels have found that the generation of PPC revenues by using a domain name that is confusingly similar to a trademark, especially where the disputed domain name constitutes an obvious misspelling/typo-squatting of such trademark, neither qualifies as a bona fide offering of goods or services nor as a legitimate noncommercial or fair use under the UDRP. Accordingly, the Panel has no difficulty in finding that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Therefore, the Complainant has also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

The Panel finally holds that the disputed domain name was registered and is being used by the Respondent in bad faith.

The circumstances to this case leave not much room for doubt that the Respondent was well aware of the Complainant’s EUTELSAT trademark when registering the disputed domain name and that the latter aims at targeting such trademark. Therefore, redirecting the disputed domain name which is confusingly similar (due to an intentional misspelling/typo-squatting) to the Complainant’s EUTELSAT trademark to a typical PPC website which shows a variety of hyperlinks to active third parties’ websites for the obvious purpose of generating PPC revenues, is a clear indication that the Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with the Complainant’s EUTELSAT trademark as to the source, sponsorship, affiliation or endorsement of this website. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

Therefore, the Complainant has also satisfied the third element under the Policy as set forth by paragraph 4(a)(iii).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

- 1. **EUTUELSAT.COM**: Transferred

PANELLISTS

Name	Stephanie G. Hartung, LL.M.
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DATE OF PANEL DECISION 2022-05-17

Publish the Decision