

Decision for dispute CAC-UDRP-104720

Case number	CAC-UDRP-104720
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Time of filing	2022-07-12 09:37:59
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Domain names	eutelzat.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

Name	New Biz
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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 is the owner of several trademarks EUTELSAT®, such as the international trademark EUTELSAT® n° 479499, registered and renewed since 20 June 1983 and the international trademark EUTELSAT® n° 777505, registered and renewed since 31 December 2001.

The Complainant also owns a number of domain names, including the same distinctive wording EUTELSAT®, of which the domain name <eutelsat.com>, registered since 29 October 1996.

The disputed domain name <eutelzat.com> was registered on 8 June 2022.

FACTUAL BACKGROUND

The Complainant has a fleet of 36 satellites serving broadcasters, video service providers, telecom operators, ISPs and government agencies operating across Europe, Africa, Asia and the Americas. Its satellites are used for video broadcasting, satellite newsgathering, broadband services and data connectivity.

The disputed domain name points to an inactive page and has been used in a phishing scheme.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

I. Complainant states that the disputed domain name <eutelzat.com> is confusingly similar to its trademark EUTELSAT®. The substitution of the letter "S" by the letter "Z" in the trademark EUTELSAT® is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark and branded goods EUTELSAT®. This is a clear case of typo squatting, the disputed domain name contains an obvious misspelling of the Complainant's trademark. In the view of Complainant, the slight spelling variations does not prevent a disputed domain name from being confusingly similar to the Complainant's trademark. Furthermore, Complainant contends that the addition of the gTLD ".COM" does not change the overall impression of the designation as being connected to Complainant's trademark. It does not prevent the likelihood of confusion between the disputed domain name and Complainant, its trademark and its domain names associated.

Complainant contends that the disputed domain name <eutelzat.com> is confusingly similar to the Complainant's trademark EUTELSAT®.

The Complainant recalls:

- CAC Case No. 104487 in EUTELSAT S.A. v. cj mayer <eutuelsat.co>;
- CAC Case No. 102753 in EUTELSAT S.A. v. pl plast <euteslat.com>;
- WIPO Case No. DCO2019-0035 in EUTELSAT S.A. v. pl plast <eutelsat.co>;
- WIPO Case No. D2003-0093, Microsoft Corporation v. X-Obx Designs <xobx.com>;
- WIPO Case No. D2006-0451, F. Hoffmann-La Roche AG v. Macalve e-dominios S.A.

II. Complainant is required to make out a prima facie case that Respondent lacks rights or legitimate interests. Once such prima facie case is made, Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. Complainant asserts that Respondent is not identified in the Whois database as the disputed domain name. Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, Respondent is not known as the disputed domain name. Respondent has registered the disputed domain name only in order to create a likelihood of confusion with the Complainant's trademark. Complainant contends that Respondent has no rights or legitimate interests in respect of the disputed domain name <eutelzat.com> and he is not related in any way with the Complainant. Complainant does not carry out any activity for, nor has any business with Respondent. Neither licence nor authorization has been granted to Respondent to make any use of the Complainant's trademark EUTELSAT®, or apply for registration of the disputed domain name by Complainant. Besides, Complainant also claims that the disputed domain name is a typosquatted version of the trademark EUTELSAT®. Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors and can be evidence that a respondent lacks rights and legitimate interests in the domain name.

Finally, Complainant asserts that Respondent uses the disputed domain name to pass itself off as one of the Complainant's employees, in order to receive payment in place of Complainant. Using the domain name in this manner is neither a bona fide offering of goods or services nor a non-commercial or fair use pursuant to Policy.

Complainant contends that Respondent has no rights or legitimate interests in respect of the disputed domain name <eutelzat.com>.

The Complainant recalls:

- Forum Case No. 1781783 in Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com>;
- Forum Case No. 699652 in The Braun Corporation v. Wayne Loney;
- Forum Case No. 1597465 in The Hackett Group, Inc. v. Brian Hems / The Hackett Group;
- Forum Case No. FA 1775963 in United Rentals, Inc. v. saskia gaaede / Mr.

III. Complainant contends that the disputed domain name <eutelzat.com> is confusingly similar to its distinctive trademark EUTELSAT®. Complainant has been the owner of the international trademark EUTELSAT® since as early as 1983. The registration and use of the trademark EUTELSAT® therefore significantly predate the Respondent's registration of the disputed domain name. Besides, the term "EUTELZAT" has no other signification, except in relation with Complainant. Moreover, Respondent has used the domain name in a phishing scheme, attempting to pass off as one of the Complainant's employees. Thus, Respondent necessarily knows about Complainant and its affiliates. Consequently, it is reasonable to infer that Respondent has registered the domain name with full knowledge of the Complainant's trademarks, which evidences bad faith. Furthermore, Complainant states that the misspelling of the trademark EUTELSAT® was intentionally designed to be confusingly similar with the Complainant's trademark. Previous UDRP Panels have seen such actions as evidence of bad faith. Finally, Respondent uses the disputed domain name in a phishing scheme. Indeed, Respondent attempted to pass off as one of the Complainant's employees. Therefore, Complainant states that Respondent uses the disputed domain name in bad faith, as it is well-established that using a domain name for purposes of phishing or other fraudulent activity constitutes solid evidence of bad faith use. Complainant submits that if Respondent is intending to impersonate Complainant to contact customers of Complainant, posing as a credit supervisor of Complainant, directing customers to transmit payments to a bank account not controlled by Complainant the Respondent does not have rights or legitimate interests in the disputed domain name.

Complainant contends that Respondent has registered and is using the disputed domain name <eutelzat.com> in bad faith.

The Complainant recalls:

- WIPO Case No. D2014-1471 in Accor v. SANGHO HEO / Contact Privacy Inc.;
- Forum Case No. FA 1393436 in Qatalyst Partners LP and Qatalyst Partners LLP v. Alyna Devimore / N/A;
- WIPO Case No. D2004-0673, Ferrari S.p.A v. American Entertainment Group Inc.;
- Forum Case No. 877979, Microsoft Corporation v. Domain Registration Philippines.

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

In order to succeed the claim, the Complainant has to prove that all of the elements embedded in paragraph 4(a) of the Policy have been satisfied:

- (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 with respect to the disputed domain name; and
- (iii) The disputed domain name has been registered and is being used in bad faith.

The Panel reviewed carefully the Complaint and the evidence provided by the Complainant. The Respondent filed neither administratively compliant Response nor provided the Panel with any evidence. The Panel based its finding and the Decision on the evidence presented by the Complainant and available websites and public information concerning the disputed domain name, namely the WHOIS databases.

The Complainant has proved that it is a long standing and successful leading broadcast operator. It is undisputable that its trademarks and domain names contain the term "EUTELSAT". It was established that the Complainant is among others the proprietor of the worldwide trademark EUTELSAT®.

The Panel therefore came to the conclusions as follows:

A. THE DISPUTED DOMAIN NAME IS CONFUSINGLY SIMILAR

The disputed domain name was registered in June 2022 and incorporated the Complainant's distinctive trademark EUTELSAT®.

The Panel finds that the substitution of the letter "S" by the letter "Z" in the trademark EUTELSAT® is not sufficient to escape the finding that the domain name is confusingly similar to the trademark and branded goods EUTELSAT®. This is a clear case of typosquatting, the disputed domain name contains an obvious misspelling of the Complainant's trademark. In the view of the Complainant the slight spelling variations does not prevent a disputed domain name from being confusingly similar to the Complainant's trademark. The Panel concludes that the addition of the gTLD ".COM" does not prevent the likelihood of confusion between the disputed domain name and Complainant, its trademark and its domain names associated.

The Panel therefore considers the disputed domain name to be confusingly similar to the trademark EUTELSAT® in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTEREST IN RESPECT OF THE DISPUTED DOMAIN NAME

The Panel concludes that the Complainant makes out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. The Complainant proves that the Respondent is not identified in the Whois database as the disputed domain name and it was not commonly known by a disputed domain name while the Whois information was not similar to the disputed domain name. The Respondent is known like "New Biz". Thus, the Respondent is not known as the disputed domain name. It is obvious that the Respondent has registered the disputed domain name only in order to create a likelihood of confusion with the Complainant's trademark. The Respondent could have easily performed a simple search before registering the disputed domain name and would have quickly learnt that the trademarks are owned by the Complainant and that the Complainant has been using its trademarks worldwide. The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name <eutelzat.com> and it is not related in any way with the Complainant. Complainant proves that Respondent does not carry out any activity for, nor has any business with the Respondent. Neither licence nor authorization has been granted to the Respondent to make any use of the Complainant's trademark EUTELSAT®, or apply for registration of the disputed domain name by the Complainant. The Panel comes to the conclusion that the Respondent uses the

disputed domain name to pass itself off as one of the Complainant's employees, in order to receive payment in place of the Complainant. Using the domain name in this manner is neither a bona fide offering of goods or services nor a non-commercial or fair use pursuant to Policy. The Respondent has not by virtue of the content of the website, nor by its use of the disputed domain name shown that they will be used in connection with a bona fide offering of goods or services.

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name in accordance with paragraph 4(a)(ii) of the Policy).

C. THE DISPUTED DOMAIN NAME WAS REGISTERED AND IS BEING USED IN BAD FAITH

i. THE DISPUTED DOMAIN NAME WAS REGISTERED IN BAD FAITH

The Complainant's trademark rights pre-date the registration of the disputed domain name and the Respondent has never been authorized by the Complainant to use these trademarks nor to register the disputed domain name. It is inconceivable that using the well-known trademark EUTELSAT® in the disputed domain name by the substitution of the letter "S" by the letter "Z" in the trademark EUTELSAT® is a deliberate and calculated attempt to improperly benefit from the Complainant's rights. Panel finds that the term "EUTELZAT" has no other signification, except in relation with the Complainant. Moreover, the Respondent has used the domain name in a phishing scheme, attempting to pass off as one of the Complainant's employees. Thus, the Respondent necessarily knows about the Complainant and its affiliates. Panel concludes that it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademarks, which evidences bad faith.

ii. THE DISPUTED DOMAIN NAME IS BEING USED IN BAD FAITH

The Panel's finding that the mere registration of the disputed domain name that is identical or confusingly similar (particularly domain names comprising a misspelling of a famous or widely-known trademark EUTELSAT® by an unaffiliated entity) was intentionally designed to be confusingly similar with the Complainant's trademark that can by itself create a presumption of bad faith.

The Panel agrees with the Complainant that the Respondent has used the disputed domain name in a phishing scheme, attempting to pass off as one of the Complainant's employees, in order to receive payment in place of the Complainant. Thus, it is obvious that the Respondent necessarily knew about the Complainant and its affiliates and it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademarks. The Panel finds that such actions is evidence of bad faith.

The Panel therefore finds that the Respondent registered and is using the disputed domain name in bad faith in accordance with paragraph 4(a)(iii) of the Policy).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **EUTELZAT.COM**: Transferred

PANELLISTS

Name	JUDr. Vojtěch Trapl
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DATE OF PANEL DECISION 2022-08-03

Publish the Decision
