

## ADMINISTRATIVE PANEL DECISION

elasticsearch B.V. v. Daniel Garcia

Case No. D2024-5334

### 1. The Parties

The Complainant is elasticsearch B.V., Netherlands (Kingdom of the), represented by Quinn IP Law, United States of America ("United States").

The Respondent is Daniel Garcia, Spain.

### 2. The Domain Name and Registrar

The disputed domain name <elasticsearch.pro> is registered with NameCheap, Inc. (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 30, 2024. On December 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 30, 2024, 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 (Namecheap, Inc. / Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 2, 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 January 8, 2025.

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 8, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 28, 2025. The Respondent sent email communications to the Center on February 2, 2025 and February 18, 2025. In view of the first of the above communications, and according to paragraph 17 of the Rules, on February 9, 2025, the Center offered the possibility to the Parties to suspend the present proceedings in order to explore settlement options, and gave the Complainant the

deadline of February 16, 2025, for submitting a request for suspension. The Complainant did not request to suspend the proceedings.

The Center appointed Edoardo Fano as the sole panelist in this matter on February 28, 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.

The Panel has not received any requests from the Complainant or the Respondent regarding further submissions, waivers, or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

Having reviewed the communication records in the case file provided by the Center, the Panel finds that the Center has discharged its responsibility under the Rules, paragraph 2(a), "to employ reasonably available means calculated to achieve actual notice to [the] Respondent". Therefore, the Panel shall issue its Decision based upon the Complaint, the Policy, the Rules, and the Supplemental Rules and without the benefit of a formal Response from the Respondent.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

#### **4. Factual Background**

The Complainant is elasticsearch B.V., a Dutch company operating as a world leader in the field of the development and sale of search, observability, artificial intelligence and security technology, and owning several trademark registrations for ELASTICSEARCH all over the world, among which:

- International Trademark Registration No. 1114893 for ELASTICSEARCH, registered on January 30, 2012, also extended to the European Union and the United States;
- United Kingdom Trademark Registration No. UK00801114893 for ELASTICSEARCH, registered on March 26, 2013.

The Complainant also owns several domain names for ELASTICSEARCH, among which <elasticsearch.com>, <elasticsearch.net>, <elasticsearch.org>, <elasticsearch.biz>, <elasticsearch.eu>, and <elasticsearch.es>.

The Complainant provided evidence in support of the above.

According to the Whois records, the disputed domain name was registered on November 5, 2022, and it is inactive.

On November 26, 2024, the Complainant's legal representatives sent a cease-and-desist letter to the Respondent via the Registrar, without receiving any reply.

#### **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 states that the disputed domain name is identical to its trademark ELASTICSEARCH, as the disputed domain name wholly incorporates the Complainant's trademark.

Moreover, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name since it has not been authorized by the Complainant to register the disputed domain name or to use its trademark within the disputed domain name, it is not commonly known by the disputed domain name and it is not making either a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name.

The Complainant submits that the Respondent has registered the disputed domain name in bad faith, since the Complainant's trademark ELASTICSEARCH is distinctive and well known in the field of the development and sale of search, observability, artificial intelligence, and security technology. Therefore, the Respondent targeted the Complainant's trademark at the time of registration of the disputed domain name and the Complainant contends that the passive holding of the disputed domain name qualifies as bad faith registration and use. Finally, the Complainant suspects that the Respondent might also use the disputed domain name in connection with phishing activities.

## **B. Respondent**

The Respondent has made no formal reply to the Complainant's contentions. The Respondent sent two informal communications to the Center on February 2 and 18, 2025, stating the following:

"My name is Daniel García Aguirre, and I am the registrant of the domain elasticsearch.pro first time 11/5/2022. I recently received an email indicating that a UDRP complaint has been filed against my domain. I would like to formally request more information regarding this dispute, including: 1. The case reference number assigned to this complaint. 2. The specific claims made by the complainant (Elastic NV). 3. The next steps and deadlines for me to respond to this matter. I am committed to addressing this issue properly and would appreciate any guidance on how I can obtain the full details of the complaint. Please let me know if there are any formal procedures I should follow or if I need to provide additional information. Thank you for your time and assistance. Best regards" (On February 2, 2025);

"Thank you for your email. I acknowledge receipt of the Center's message regarding the ongoing UDRP proceeding concerning the domain elasticsearch.pro. I am open to exploring a settlement agreement with the Complainant. Accordingly, I request that the UDRP proceeding be suspended to allow both parties to discuss potential resolution terms. Please confirm the next steps and provide the Standard Settlement Form for review. Best regards" (On February 18, 2025).

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark 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 respondent is not obliged to participate in a proceeding under the Policy, but if it fails to submit a formal response, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 4.3.

### **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 3.0](#), section 1.7.

Based on the available record, the Panel finds 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 identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

It is also well accepted that a generic Top-Level Domain, in this case ".pro", is typically ignored when assessing the similarity between a trademark and a domain name. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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.

While 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 often impossible 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. 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 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.

Moreover, the Panel finds that the composition of the disputed domain name carries a high risk of implied affiliation as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, 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, regarding the registration in bad faith of the disputed domain name, the reputation of the Complainant's trademark ELASTICSEARCH in the field of the development and sale of search, observability, artificial intelligence, and security technology is clearly established, and the Panel finds that the Respondent more likely than not knew of the Complainant, and deliberately registered the disputed domain name in bad faith.

As regards the use of the disputed domain name, being inactive, panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the reputation of the Complainant's trademark in the field of the development and sale of search, observability, artificial intelligence, and security technology, the nature of the disputed domain name (which

is identical to the Complainant's trademark, as well as to the Complainant's company name), and the failure of the Respondent to submit a formal Response or provide any explanation for its motivations in registering the disputed domain name, and finds that in the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Furthermore, the Panel considers that the nature of the inherently misleading disputed domain name, which is identical to the Complainant's trademark and company name, further supports a finding of bad faith.  
[WIPO Overview 3.0](#), section 3.2.1.

Based on the available record, the Panel finds the third element of the Policy has been established.

## **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, <elasticsearch.pro>, be transferred to the Complainant.

*/Edoardo Fano/*

**Edoardo Fano**

Sole Panelist

Date: March 10, 2025