

ADMINISTRATIVE PANEL DECISION

elasticsearch B.V. v. Mike Gilfillan
Case No. D2024-5339

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 Mike Gilfillan, United States.

2. The Domain Name and Registrar

The disputed domain name <elasticsearchjobs.com> 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 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 31, 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 (GoDaddy.com, LLC / Registration Private, Domains By Proxy, LLC) 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 13, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 2, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 4, 2025.

The Center appointed Anna Carabelli as the sole panelist in this matter on February 13, 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 a software company providing a distributed, open-source search and analytics engine, and operating an “Elasticsearch” platform for search-powered solutions. The Complainant’s solutions in Enterprise Search, Artificial Intelligence, Observability, and Security are aimed at helping consumer and employee search experiences, keeping mission-critical applications running smoothly, and protecting against cyber threats.

The Complainant’s products and services are utilized and integrated in the data infrastructures of leading and technically advances business solutions providers. The Complainant has an active Elastic Meetup community of over 101,000 members across 55 countries. Elastic Meetups have occurred for over a decade, with the first event held in September 2012.

As of November 2024, the Complainant’s Elasticsearch platform has been downloaded more than 4 billion times. The Complainant has also directly licensed its search solutions under its ELASTIC and ELASTICSEARCH trademarks to around 20,000 commercial enterprise and government customers in approximately 175 countries.

Since the early 2010s, the Complainant has owned multiple trademark registrations for the trademarks ELASTIC and ELASTICSEARCH (hereafter collectively the ELASTICSEARCH Trademark) in many jurisdictions including the United States where the Respondent is purportedly based. In particular, the Complainant owns the following trademark registrations:

- United States Registration No. 4212205 for ELASTICSEARCH (word), registered on September 25, 2012, for goods and services in classes 9 and 42;
- United States Registration No. 6263801 for ELASTIC (word), filed on August 2, 2019, registered on February 9, 2021, in classes 9 and 42;
- United States Registration No. 6211319 for ELASTIC (design), filed on January 21, 2016, registered on December 1, 2020, in class 9.
- International Trademark Registration No. 1114893 for ELASTICSEARCH, filed and registered on January 30, 2012, in classes 9 and 42.

The Complainant also owns multiple domain names with the term “elasticsearch” forming part of the domain name, such as <elasticsearch.com>, <elasticsearch.biz>, <elasticsearch.net>, <elasticsearch.org>, <elasticsearch.co>, and <elasticsearch.us>.

The disputed domain name was registered on November 11, 2014. As per the undisputed evidence provided with the Complaint, the disputed domain name resolves to a Registrar’s parking page stating that the disputed domain name is registered but may still be available through the Registrar’s domain brokerage service.

On November 26, 2024, before the commencement of this proceeding, the Complainant sent a cease-and-desist letter to the Respondent. No response was received.

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:

- Due to its extensive use, advertising, and revenue associated, the Complainant's ELASTICSEARCH Trademark is well-known worldwide and firmly associated with the Complainant;
- The disputed domain name is confusingly similar to the Complainant's ELASTICSEARCH Trademark, since it consists of the Complainant's mark with the addition of the generic term "jobs";
- The Respondent has no rights or legitimate interests in the disputed domain name since: (i) the Complainant has not authorized or somehow given consent to the Respondent to register and use the disputed domain name, (ii) the Respondent is not commonly known by the disputed domain name, and (iii) the Respondent's use of the disputed domain name is neither a bona fide offering of goods or services nor a legitimate noncommercial or fair use;
- The disputed domain name was registered and is being used in bad faith. The structure of the disputed domain name shows that the Respondent registered it having in mind the Complainant's ELASTICSEARCH Trademark, and reflects the Respondent's clear intention to create an association with and take advantage of the Complainant's widely known trademark. Passive holding, which is the case here, demonstrates bad faith;
- The fact that the Respondent registered the disputed domain name with a privacy shield service and did not respond to the Complainant's cease-and-desist letter is further evidence of the Respondent's bad faith.

Based on the above the Complainant requests the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the panel to decide the complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the complainant must prove each of the following:

- (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.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the respondent, shall be evidence of the respondent's rights to or legitimate interests in a disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

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 Complainant's ELASTICSEARCH Trademark is reproduced and recognizable 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.

The addition of the Top-Level Domain, such as ".com", is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Although the addition of other terms, here "jobs", may bear on assessment of the second and third elements, the Panel finds the addition of such term 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. There is no indication before the Panel of any activity in relation to the disputed domain name that would give rise to rights or legitimate interests by the Respondent.

Furthermore, the Panel notes the nature of the disputed domain name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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 Complainant's ELASTICSEARCH Trademark has been continuously and extensively used for many years and have as a result acquired considerable reputation and goodwill worldwide, as held by previous UDRP decisions (see amongst others, *elasticsearch B.V. v. Michael Nava*, WIPO Case No. [D2024-4001](#)). In view of the well-known character of the ELASTICSEARCH Trademark, it is difficult to believe that the Respondent did not have in mind the Complainant's trademark when registering the disputed domain name.

Prior panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

As to bad faith use, the disputed domain name does not point to an active website and merely resolves to a parking page.

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. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the reputation of the Complainant's trademark as an internationally established mark, the composition of the disputed domain name as discussed above, the failure of the Respondent to submit a response and to answer the Complainant's cease-and-desist letter, 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.

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 <elasticsearchjobs.com> be transferred to the Complainant.

/Anna Carabelli/

Anna Carabelli

Sole Panelist

Date: February 27, 2025