

ADMINISTRATIVE PANEL DECISION

elasticsearch B.V. v. Alicia Cozine

Case No. DCO2024-0089

1. The Parties

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

The Respondent is Alicia Cozine, United States of America.

2. The Domain Name and Registrar

The disputed domain name <elasitic.co> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 26, 2024. On November 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 26, 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.) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 27, 2024, 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 December 2, 2024.

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 December 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 26, 2024.

The Center appointed Taras Kyslyy as the sole panelist in this matter on January 2, 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 ELASTIC and ELASTICSEARCH trademarks are used with the Complainant's platform for search-powered solutions. The Complainant's solutions in Enterprise Search, Artificial Intelligence, Observability, and Security enhance customer and employee search experiences. As of April 2024, the Complainant's platform has been downloaded more than 4 billion times. This demonstrates the Complainant's platform's intensive use and adoption for millions of applications through Open-Source Communities and developers around the world. The Complainant has also directly licensed its search solutions under its trademarks to around 20,000 commercial enterprise and government customers in approximately 175 countries. The Complainant's products and services are utilized and integrated in the data infrastructures of some of the world's most recognizable and technically advanced businesses and solutions providers, including, but not limited to, Adobe, BMW, Cisco, Comcast, and Equinix in addition to many governments. The Complainant's branded software is widely distributed and accessed worldwide through major platform Cloud partnerships with Microsoft, Amazon Web Services (AWS), Google, IBM, and many others. The Complainant has an active Elastic Meetup community of over 101,000 members across 55 countries. The Complainant also creates user event experiences and connections, including the Elastic Community, where the Complainant hosts meetups, conferences, in-person, and virtual events and has 140 groups around the world.

The Complainant owns numerous registrations for its ELASTIC trademark in various jurisdictions, including, for instance the United States of America registration No. 6263801, registered on February 9, 2021.

The Complainant also owns over 110 domain names that begin with or contain the Complainant's trademarks, including the generic Top-Level Domains (gTLDs) <elastic.net>, <elastic.info>, <elastic.org>, <elastic.cloud>, as well as prominent country code Top-Level Domains (ccTLDs) including, but not limited to the domain name <elastic.co>, the Complainant's primary domain name for its business.

The disputed domain name was registered on November 10, 2024 and resolved to a parked web-page. As of the date of this decision the disputed domain name does not resolve to any active web-page. Several email addresses associated with the disputed domain name were used to distribute messages falsely pretending being sent by the Complainant and falsely suggesting internship positions with the Complainant.

The Complainant sent a demand letter addressing the Respondent, however no reaction followed.

The Respondent was previously a party to *Bainbridge Capital, Inc. v. Alicia Cozine*, WIPO Case No. [D2024-1123](#).

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 the disputed domain name is identical or confusingly similar to the Complainant's trademark. The Respondent in the disputed domain name typosquats Complainant's famous and well-known trademark in its entirety, by adding the letter "i" between the letters "s" and "t".

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with or licensed by the Complainant. There is no evidence that the Respondent is commonly known by the disputed domain name or has a trademark registration for ELASTIC. There is no evidence that the Respondent is making any fair use of the disputed domain name, in fact, evidence exists of Respondent's purposeful misuse of Complainant's rights. There is evidence of the Complainant's worldwide registration and use of its trademarks with the Complainant's business resulting in its trademarks being famous and well-known. The nature of the disputed domain name carries a high risk of implied affiliation and cannot constitute a fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Respondent's failure to respond to the Complainant's demand letter is evidence of passive holding of the domain and bad faith. The Respondent creates a likelihood of confusion by adopting the Complainant's trademarks to create consumer confusion. Given the distinctiveness of the Complainant's trademarks, the Respondent registered the disputed domain name in bad faith to prevent the Complainant from registering the domain name and/or fraudulently attempting to profit from the Complainant's trademark rights in its famous trademarks. The Respondent is clearly using the disputed domain name for commercial gain. The Respondent shortly after registering the disputed domain name used, and continues to use it in a fraudulent phishing email campaign from an email address "[...]@elasitic.co", representing a connection or affiliation with the Complainant to unknowing members of the general public. The Respondent registered the disputed domain name to intentionally attract Internet users to the Respondent. The Respondent is engaged in a pattern of bad faith conduct through the registration of the disputed domain name as it similarly did as addressed in *Bainbridge Capital, Inc. v. Alicia Cozine*, WIPO Case No. [D2024-1123](#).

B. Respondent

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

6. Discussion and Findings

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 Panel finds the disputed domain name consists of an obvious and intentional misspelling of the Complainant's trademark which is recognizable within the disputed domain name, and this is considered to be confusingly similar to the Complainant's mark for purposes of the first element. [WIPO Overview 3.0](#), sections 1.7 and 1.9.

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.

The available evidence does not confirm that the Respondent is commonly known by the disputed domain name, which could demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainant did not license or otherwise agree for use of its prior registered trademarks by the Respondent, thus no actual or contemplated bona fide or legitimate use of the disputed domain name could be reasonably claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

Panels have held that the use of a domain name for illegal activity here, claimed phishing, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 Respondent shortly after registration of the disputed domain name, consisting of intentional and obvious misspelling of the Complainant’s famous trademark, used the disputed domain name in associated email addresses to distribute false messages pretending to be sent by the Complainant. Moreover, the Respondent’s pattern of similar behavior was confirmed by previous panel in *Bainbridge Capital, Inc. v. Alicia Cozine*, WIPO Case No. [D2024-1123](#). The Panel find these confirm the Respondent knew and targeted the Complainant and its famous trademark when registering the disputed domain name, which is bad faith. [WIPO Overview 3.0](#), section 3.2.2.

Panels have held that the use of a domain name for illegal activity here, claimed phishing, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

Moreover, the Respondent failed to respond to the Complainant’s demand letter, and did not provide any good reason to justify this, which also confirms the bad faith (see, e.g., *Compagnie Generale des Etablissements Michelin v. Vaclav Novotny*, WIPO Case No. [D2009-1022](#)).

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 <elastic.co> be transferred to the Complainant.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: January 7, 2025