Decision for dispute CAC-UDRP-102753

Case number	CAC-UDRP-102753
Time of filing	2019-10-29 13:11:37
Domain names	euteslat.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	EUTELSAT S.A.

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	pl plast

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other pending or decided legal proceedings relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant EUTELSAT S.A. is one of the leading operators in the commercial satellite business.
EUTELSAT S.A, official global Website is accessible under www.eutelsat.com.
The Complainant has a fleet of 37 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 Complainant is the owner of several trademarks EUTELSAT®, that are among others
International trademark: EUTELSAT
Reg. No.: 479499
First use: 20 June 1983
and
International trademark EUTELSAT
Reg. No.: 777505
First use: 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>, is registered since 29 October 1996.

The disputed domain name <euteslat.com> was registered on 28 September 2019.

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

FACTUAL BACKGROUND

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

I. Disputed domain name is confusingly similar to the protected mark

The Complainant states that the disputed domain name <euteslat.com> is confusingly similar to its trademark EUTELSAT while the inversion of the letters “L” and “S” in the trademark EUTELSAT is not sufficient to escape the finding that the domain name is confusingly similar to the trademark and branded goods of the Complainant. The typosquatting consists in an obvious misspelling of the Complainant’s trademark. Besides, the term “EUTELSAT” has no other signification, except in relation with the Complainant.

II. The Respondent does not have any rights or legitimate interest in the disputed domain name

The Complainant states that the disputed domain name <euteslat.com> lacks rights or legitimate interests and it carries the burden of demonstrating rights or legitimate interests in the domain name once the Complainant make out a prima facie case that the Respondent lacks them. According to the information available on the Whois database, the owner of the disputed domain name <euteslat.com> is "pl plast". The Respondent is not commonly known by a disputed domain name if the Whois information is not similar to the disputed domain name and 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 Complainant contends that the Respondent is not related in any way with the Complainant. The Complainant 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. Furthermore, the disputed domain name is currently inactive. Therefore, the Complainant contends that Respondent did not make any use of disputed domain name since its registration, and it confirms that Respondent has no demonstrable plan to use the disputed domain name and demonstrates a lack of legitimate interests in respect of the disputed domain name.

III. The disputed domain name has been registered and is being used in bad faith

The Complainant states that the Respondent has used the disputed domain name <euteslat.com> in a phishing scheme, attempting to pass off as one of the Complainant’s executive, in order to receive payment in place of the Complainant. Thus, the Respondent necessarily knew about the Complainant and its affiliates. Consequently, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademarks.

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 confusingly similar to a trademark 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

1. 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.

2. 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.

3. 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.

4. The Panel therefore came to the conclusions as follows:

A. THE DOMAIN NAME IS CONFUSINGLY SIMILAR

The disputed domain was registered in September 2019 and incorporated the Complainant’s distinctive trademark EUTELSAT.

The Panel finds that the disputed domain name <euteslat.com> was created by an inversion of the letters “L” and “S” in the trademark EUTELSAT. The inversion of letters is qualified as a typosquatting which consists in an obvious misspelling of the Complainant’s trademark and does not suffice to escape the finding that the domain name is confusingly similar to the trademark. The Panel can refer to the WIPO Case No. D2003-0093, Microsoft Corporation v. X-Obx Designs <xobx.com> that typographical error variations and misspellings of trademarked terms have long been found to be confusingly similar.

The Panel finds that the gTLD .website does not create any distinctiveness to the disputed domain name because the addition of the gTLD “.COM” does not change the overall impression of the designation as being connected to Complainant’s trademark and does not prevent the likelihood of confusion between the disputed domain name and Complainant, its trademark and its domain names. The Panel can refer to the CAC Case No. 102545, EUTELSAT S.A. v. Milen Radumilo <drh-eutelsat.com>, the CAC 102237 and the WIPO Case No. D2017-1018, EUTELSAT SA v. Jérôme Mario <eutelsat-paris.com>.

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 DOMAIN NAME

The Complainant has never granted the Respondent any right to use the EUTELSAT trademark within the disputed domain name, nor is the Respondent affiliated to the Complainant in any form. The Respondent was not found that it is commonly known by the disputed domain name and has got interest over the disputed domain name or the major part of it. When entering the terms “eutelsat” in the Google search engine, the returned results pointed to the Complainant’s business activities only.

The Respondent could have easily performed a similar 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 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 DOMAIN NAME WAS REGISTERED AND IS BEING USED IN BAD FAITH

i. THE 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 inversion of two letters "L" and "S" is a deliberate and calculated attempt to improperly benefit from the Complainant’s rights.

ii. THE DOMAIN NAME IS BEING USED IN BAD FAITH

The finding of bad faith is supported by 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 by an unaffiliated entity) can by itself create a presumption of bad faith.

The Panel agrees with the Complainant that the Respondent has used the disputed domain name <euteslat.com> in a phishing scheme, attempting to pass off as one of the Complainant’s executive, 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. The Panel can refer to the WIPO Case No. D2004-0673, Ferrari S.p.A v. American Entertainment Group Inc. that it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademarks.

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. **EUTESLAT.COM**: Transferred

PANELLISTS

Name	**JUDr. Vojtěch Trapl**

DATE OF PANEL DECISION 2019-11-28

Publish the Decision