# Decision for dispute CAC-UDRP-103103

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| Case number | CAC-UDRP-103103 |
| Time of filing | 2020-06-08 11:48:02 |
| Domain names | eutelsateamerica.com |

## Case administrator

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| Name | Šárka Glasslová (Case admin) |

## Complainant

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| Organization | EUTELSAT S.A. |

## Complainant representative

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| Organization | Nameshield (Laurent Becker) |

## Respondent

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| Name | Andrew Loly |

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 trademark registrations across various jurisdictions, inter alia international trademark registrations no. 479499 EUTELST, registered on June 20, 1983, and no. 777505 EUTESAT, registered on December 31, 2001. The trademarks are registered for various goods in classes 7, 9, 12, 16, 35, 37, 38, 41 and 42 (hereinafter referred to as the "Trademark").

FACTUAL BACKGROUND

The Complainant is one of the leading operators in the commercial satellite business. The Complainant has a fleet of 39 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 also the owner of a number of domain names, including <eutelsat.com>, registered on October 29, 1996.

The disputed domain name <eutelsateamerica.com> was registered on May 15, 2020, and redirects to a parking website

with commercial links in relation with the Complainant and its business.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to the Trademark as it includes the Trademark in its entirety, merely misspelling it by adding the letter "e" at the end and adding the geographic term "america".

Furthermore, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In this regard, the Complainant states that the Respondent has no relationship with the Complainant's business and is not authorized or licensed to use its trademarks. In addition, the Complainant contends that the Respondent is not commonly known by the disputed domain name and that the Respondent's use of the disputed domain name to forward Internet users to a parking page with commercial links to third parties' websites is no bona fide offering of goods or services or legitimate noncommercial or fair use under the Policy.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. In this regard, the Complainant contends that the Trademark is widely known and highly distinctive and that the Respondent was fully aware of the Complainant when registering the disputed domain name. The Complainant also states that the Respondent has provided no evidence of any actual or contemplated good faith use by it of the disputed domain name and is using the disputed domain name to attract, for commercial gain Internet users to its websites or other on-line locations by creating a likelihood of confusion with the Trademark as to the source, sponsorship, affiliation or endorsement of Respondent’s websites or location or of a product or service on Respondent’s websites or location.

RESPONDENT:

No administratively compliant Response has been filed.

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

Under paragraph 4(a) of the Policy, the Complainant must prove that each of the following three elements is present:

(i) the disputed domain name is identical or confusingly similar to the Complainant's trademark; and

(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.

1. The Panel accepts that the disputed domain name is confusingly similar to the Trademark as it fully incorporates the Trademark. It is well established that the specific top-level domain name generally is not an element of distinctiveness that can be taken into consideration when evaluating the identity or confusing similarity between the complainant's trademark and the disputed domain name. The additional geographic term “america” and the misspelling of the trademark with adding the letter "e" at the end are not able to eliminate the similarity between the Complainant’s trademark and the disputed domain name but, on the contrary, enhance the likelihood of confusion, as they make users think that this website is the website of the Complainant in the USA.

2. The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain name. The Panel finds that the Complainant has fulfilled its obligations under paragraph 4(a)(ii) of the Policy. The Respondent did not deny these assertions in any way and therefore failed to prove any rights or legitimate interests in the disputed domain name.

Based on the evidence before the Panel, the Panel cannot find any rights or legitimate interests of the Respondent either. In particular, the Respondent’s use of the disputed domain name to forward Internet users to a pay-per-click parking page does not constitute a bona fide offering of goods and services under paragraph 4(c)(i) of the Policy.

3.1 The Panel is satisfied that the Respondent registered the disputed domain name with full knowledge of the Complainant and its rights in the Trademark as the Trademark is well-established. In addition, the fact that the Respondent uses the disputed domain name in connection with a PPC parking page featuring advertising links for websites competing with the Complainant's services is clear evidence that the Respondent is deliberately targeting the Complainant.

3.2 As to bad faith use, by using the disputed domain name in connection with landing pages providing pay-per-click links which promote third parties’ products and services, the Respondent was, in all likelihood, trying to divert traffic intended for the Complainant’s website to its own for commercial gain as set out under paragraph 4(b)(iv) of the Policy. It is well established that a respondent (as the registered owner of the domain name) is in general ultimately responsible for the information available at the website and for all content posted there, regardless of how and by whom such content was generated and regardless of who profits directly from the commercial use.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **EUTELSATEAMERICA.COM**: Transferred

## PANELLISTS

| Name | **Peter Müller** |
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DATE OF PANEL DECISION 2020-07-14

Publish the Decision