Decision for dispute CAC-UDRP-100957

Case number	**CAC-UDRP-100957**
Time of filing	**2015-03-25 12:08:01**
Domain names	**eutelsat-france.com**

Case administrator

Name	**Lada Válková (Case admin)**

Complainant

Organization	**EUTELSAT SA**

Complainant representative

Organization	**Nameshield (Anne Morin)**

Respondent

Organization	**VistaPrint Technologies Ltd**

IDENTIFICATION OF RIGHTS

The Complainant owns several registered trademarks, including:

- International Registration for EUTELSAT, registered on June 20, 1983, registration number 479499, for goods and services in classes 7, 9, 12, 16, 35, 38 and 41;

- International Registration for EUTELSAT, registered on December 31, 2001, registration number 777505, for goods and services in classes 9, 16, 35, 37 and 38.

The Panel shall refer to these trademarks as the “Trademarks”.

The Complainant is also the holder of various domain names containing the Trademarks, such as <eutelsat.com>, registered on October 29, 1996.

FACTUAL BACKGROUND

The Complainant is a French satellite operator and supplier of fixed satellite services.

The Respondent registered the disputed domain name on March 16, 2015. The disputed domain name resolves to a website which is passively used as a parking page.

PARTIES CONTENTIONS

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No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the 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 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 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

The Respondent did not reply to the Complainant’s contentions. However, the Respondent’s default does not automatically result in a decision in favor of the Complainant. The Complainant must still establish each of the three elements required by paragraph 4(a) of the Policy. Although the Panel may draw appropriate inferences from a respondent’s default, paragraph 4 of the Policy requires the complainant to support its assertions with actual evidence in order to succeed in these proceedings. Paragraph 14(b) of the Rules provides that, in the absence of exceptional circumstances, the Panel shall draw such inferences as it considers appropriate from a failure of a party to comply with a provision or requirement of the Rules. The Panel finds that in this case there are no such exceptional circumstances.
Under the Policy, the Complainant must prove that:
(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. Identical or Confusingly Similar

It is well established that gTLDs may typically be disregarded in the assessment under paragraph 4(a)(i) of the Policy (e.g., Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003).
The Panel observes that the Trademarks are included in the disputed domain name in their entirety. The addition of "-" and of the term "France", corresponding to a geographical term, at the end of the disputed domain name is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Trademarks.
Therefore, the first element of paragraph 4(a) of the Policy is met.

B. Rights or Legitimate Interests

The Complainant must make a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name, which the Respondent may rebut (e.g., Croatia Airlines d.d. v. Modern Empire Internet Ltd., WIPO Case No. D2003-0455).
The Complainant has not authorized the Respondent to use the Trademarks, and the Respondent is not commonly known by the disputed domain name. In absence of another explanation, the Panel finds that the Respondent must have had the Trademarks in mind when it registered the disputed domain name.

The Panel is therefore satisfied that the Complainant has made a prima facie case, which the Respondent has not rebutted. As a result, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name and the second element of paragraph 4(a) of the Policy is also met.

C. Registered and Used in Bad Faith

The Complainant has shown that the Respondent has been using the disputed domain name for the purpose of creating fraudulent e-mail addresses such as: "compta@eutelsat-france.com" and "laurent.blanc@eutelsat-france.com". The Panel agrees with the Complainant that the disputed domain name has been registered in order of usurping the Complainant's identity, by sending fraudulent mails to third parties and thus creating a likelihood of confusion in order to generate improper payments from such third parties. This consists in a clear case of scamming.
The Respondent has been subject to a number of other UDRP cases (Statoil ASA v. VistaPrint Technologies Ltd, WIPO Case No. D2014-1949; Roper Industries, Inc. v. VistaPrint Technologies Ltd, WIPO Case No. D2014-1828; Tetra Laval Holdings & Finance S.A. v. Vista Print Technologies Ltd, WIPO Case No. D2014-1387; Sanofi v. VistaPrint Technologies Ltd, WIPO Case No. D2014-0842; TVS Motor Company Ltd v. Vista Print Technologies Ltd, WIPO Case No. DCO2014-0007; Maxim Healthcare Services, Inc. v. VistaPrint Technologies Ltd, WIPO Case No. D2009-1168), which constitutes a pattern of conduct of preventing a trademark holder from reflecting the mark in a corresponding domain name.
Consequently, the Panel is also satisfied that third and last element of paragraph 4(a) of the Policy is met.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **EUTELSAT-FRANCE.COM**: Transferred

PANELLISTS

Name	**Alfred Meijboom**

DATE OF PANEL DECISION 2015-05-07

Publish the Decision