Decision for dispute CAC-UDRP-108034

Case number	**CAC-UDRP-108034**
Time of filing	**2025-10-20 10:35:26**
Domain names	**eluvia.digital**

Case administrator

Name	**Olga Slanařová (Case admin)**

Complainant

Organization	**SparkTECH s.r.o.**

Complainant representative

Organization	**PRK Partners s.r.o. advokátní kancelář**

Respondent

Name	**Aldrin Holmes**

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 the EU trademark No. 018263650, "ELUVIA", registred on February 5, 2021, for goods and services in classes 9, 16, 35, 38, 41 and 42.

The disputed domain name was registered by the Respondent on March 25, 2025.

FACTUAL BACKGROUND

The Complainant states that it is limited liability company based in Czechia specialized in the development of large-scale software solutions for which it uses the brand “Eluvia“. The Complainant points out that it is the owner of the domain name <eluvia.com>, used for advertise its products and services, and of other domain names containing the distinctive element "eluvia" such as <eluvia.cz>, <eluvia.eu>, <eluvia.cloud>, <eluvia.land>, <eluvia.online>, <eluvia.space>, <eluvia.design>, <eluvia.dev> and <eluvia.world>.

The disputed domain name currently resolves to a website with generic content which has no relation to the name “Eluvia”. The website contains articles of the same author, which date from before the registration of the disputed domain name (namely August and September 2021), probably generated by artificial intelligence. Prior to that website, there was another website which referred to “Eluvia Digital” brand and promoted goods and services similar to those of the Complainant with the statement “Founded in 2015

Eluvia Digital has cemented its place as a global leader in IT Service and Solution". The website was allegedly operated by the entity "Eluvia Digital" headquartered in London, United Kingdom. However, no Eluvia Digital entity is listed in the companies register in the UK. Two "Eluvia Limited" entities are listed in the above-mentioned register, however none of them is based in London; one of them was incorporated in September 2025, while the other one was dissolved in 2013. No "Eluvia Digital" entity can be found in an internet search. According to the information from the registrar, the disputed domain name is owned by the Respondent domiciled in India.

The Complainant considers that the disputed domain name is identical to the Complainant's trademark because it includes Complainant's trademark in its entirety and the top-level domain must be disregarded under the identity or confusing similarity test as it is a necessary technical requirement of the registration.

The Complainant states that:

- the Respondent is not commonly known by the disputed domain name;

- the Respondent is not related in any way to the Complainant;

- the Respondent is not authorized by the Complainant to use the Complainant's trademark in the disputed domain name;
- the generic content published on the Respondent's website is not related to the Eluvia name and does not constitute a bona fide offering of goods or services;

- the use of the previous Respondent's website, which advertised "IT services and solution" allegedly provided by the entity Eluvia Digital based in London had no relationship whatsoever to the Respondent allegedly domiciled in India and does not constitute a bona fide offering of goods or services.

The Complainant argues that:

- the Respondent has been using the disputed domain name for the previous fake website advertising non-existent products and services similar to those of the Complainant;

- the non-existent products and services were allegedly provided by a non-existent entity "Eluvia Digital" which has no relationship to the Respondent, allegedly domiciled in India;

- the current generic and likely AI generated website has no relation to the name "Eluvia";

- by the previous website, the Respondent has intentionally created a likelihood of confusion with the Complainant and the Complainant's trademark to attract internet users to the Respondent's fake website;

- the circumstances indicate that it is a prima facie cybersquatting case.

PARTIES CONTENTIONS

The Complainant, relying on the arguments summarised above, contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.
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

In accordance with paragraph 4(a) of the Policy, in order to obtain the transfer of the disputed domain name, the Complainant has to demonstrate that:

(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 in respect of the disputed domain name; and

(iii) The disputed domain name has been registered and is being used in bad faith.

IDENTICAL OR CONFUSINGLY SIMILAR

The first requirement that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark or service mark rights.

There are two elements of this test: the Complainant must demonstrate that it has rights in a trademark or service mark and, if so, the disputed domain name must be shown to be identical or confusingly similar to the trademark or service mark.

The Complainant has proven ownership of the registered trademark "ELUVIA", identified in section "Identification of rights" above.

The Panel observes that the registration of the Complainant's trademark predates the registration of the disputed domain name.

On the question of identity or confusing similarity, what is required is simply a comparison and assessment of the disputed domain name itself to the Complainant's trademark.

The disputed domain name differs from the Complainant's trademark only by the addition of the top-level domain ".DIGITAL".

It is well established that merely adding a top-level domain to a trademark is not sufficient to distinguish a domain name from a trademark (see, for example, CAC Case No. 100831).

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

RIGHTS OR LEGITIMATE INTERESTS

The second requirement that the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in the disputed domain name:

(i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a bona fide offering of goods or services; or

(ii) [the Respondent] (as an individual, business, or other organization) [has] been commonly known by the [disputed] domain name, even if [the Respondent] [has] acquired no trademark or service mark rights; or

(iii) [the Respondent] [is] making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

This is a non-exhaustive list of circumstances in which a respondent can show rights or legitimate interests in a domain name.

The onus of proving this requirement falls on the Complainant. UDRP panels have recognized that proving that a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible task of "proving a negative".

Accordingly, it is usually sufficient for a complainant to raise a prima facie case against the respondent and the burden of proof on this requirement shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name.

The Panel finds that the Complainant has made out a prima facie case that the Respondent does not have rights or legitimate interests in the disputed domain name.

In particular, the Complainant states that:

- the Respondent is not commonly known by the disputed domain name;

- the Respondent is not related in any way to the Complainant;

- the Respondent is not authorized by the Complainant to use the Complainant's trademark in the disputed domain name;
- the generic content published on the Respondent's website is not related to the Eluvia name and does not constitute a bona fide offering of goods or services;

- the use of the previous Respondent's website, which advertised "IT services and solution" allegedly provided by the entity "Eluvia Digital" based in London had no relationship to the Respondent, allegedly domiciled in India, and does not constitute a bona fide offering of goods or services.

Taking into account the fact that the Respondent is not commonly known by the disputed domain name, that the Respondent is not related in any way to the Complainant, that the Respondent is not authorized by the Complainant to use the Complainant's trademark in the disputed domain name and that the current and previous use of the disputed domain name relates to - on the balance of probabilities - fake websites, the Panel cannot imagine any possible legitimate justification for this use, and the Respondent has not come forward with any explanation that demonstrates any rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

REGISTERED AND USED IN BAD FAITH

Under the third requirement of the Policy, the Complainant must establish that the disputed domain name has been both registered and used in bad faith by the Respondent.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, including:

(i) circumstances indicating that [the Respondent] [has] registered or [has] acquired the [disputed] domain name primarily for the purpose of selling, renting, or otherwise transferring the [disputed] domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of [the Respondent's] documented out-of-pocket costs directly related to the [disputed] domain name; or

(ii) [the Respondent] [has] registered the [disputed] domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the Respondent] [has] engaged in a pattern of such conduct; or

(iii) [the Respondent] [has] registered the [disputed] domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the [disputed] domain name, [the Respondent] [has] intentionally attempted to attract, for commercial gain, Internet users to [the Respondent's] web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the Respondent's] web site or location or of a product or service on [the Respondent's] web site or location.

The Panel, on the basis of the evidence presented, agrees with the Complainant's contentions that the disputed domain name was registered in bad faith and that it has been used in bad faith.

The Panel observes that it is well established that the scenarios described in UDRP paragraph 4(b) are non-exclusive and merely illustrative. Therefore, even where a complainant is not able to demonstrate the literal application of one of the above-mentioned scenarios, evidence demonstrating that a respondent seeks to take unfair advantage of, abuse, or otherwise engage in behaviour detrimental to the complainant's trademark would also satisfy the complainant's burden.

The Panel agrees that the Respondent has been using the disputed domain name for websites that, on the balance of probabilities, are fake. In addition, one of them advertised services in competition with the Complainant's services. Given the presence on the internet of the Complainant with its use of the domain name <eluvia.com> and several other domains where the trademark "ELUVIA" constitutes the second-level domain, which resolve to its website, on the balance of the probabilities, the Respondent was aware of the Complainant, its trademark, and its services.

Other panels considered that knowledge of a corresponding mark at the time of the domain name's registration can suggest bad faith (see WIPO Case No. D2017-0100). The Panel shares this view.

The Panel agrees also that, on the balance of probabilities, the Respondent has registered and is using the disputed domain name primarily with the intention of attracting Internet users to its website for commercial purposes by creating a likelihood of confusion with the Complainant's trade mark as to the origin, sponsorship, affiliation or endorsement of its website.

The Panel observes that if the Respondent had legitimate purposes in registering and using the disputed domain name it would have filed a Response in this proceeding.

The Panel, having taken into account the Respondent's knowledge of the Complainant's trademark at the time of the disputed domain name's registration and the use of the disputed domain name in a website which appeared to offer services in competition with the Complainant, replaced by a - on the balance of probabilities - fake website, considers that the disputed domain name was registered and is being used in bad faith.

Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **eluvia.digital**: Transferred

PANELLISTS

Name	**Michele Antonini**

DATE OF PANEL DECISION 2025-11-20

Publish the Decision