

ADMINISTRATIVE PANEL DECISION

elasticsearch B.V. v. Bernard Kycler
Case No. D2024-5340

1. The Parties

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

The Respondent is Bernard Kycler, Poland.

2. The Domain Name and Registrar

The disputed domain name <elasticjobs.com> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 30, 2024. On December 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 31, 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 (Dynadot Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 6, 2025, 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 January 12, 2025.

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 January 13, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 2, 2025. The Response was filed with the Center on January 25, 2025.

The Center appointed Steven A. Maier as the sole panelist in this matter on January 28, 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.

The Complainant submitted an unsolicited supplemental filing on January 31, 2025. The Respondent submitted an unsolicited supplemental filing on February 3, 2025.

4. Factual Background

The Complainant is a company registered in the Netherlands. It provides software solutions in enterprise search, artificial intelligence, observability and cyber security. The Complainant offers a distributed search and analytics platform under the name and trademark ELASTICSEARCH.

The Complainant is the owner of various trademark registrations including, for example, the following:

- International trademark registration number 1114893 for the word mark ELASTICSEARCH, registered on January 30, 2012, for goods and services including “software for use in searching” in International Classes 9 and 42, and designating Australia, the European Union, Japan, the United States, and the Russian Federation;
- United States trademark registration number 6263801 for the word mark ELASTIC, registered on February 9, 2021, for goods and services including “software for use in searching” in International Classes 9 and 42; and
- International trademark registration number 1315717 for the word mark ELASTIC, registered on July 21, 2016, for goods and services including “software for use in searching” in International Classes 9 and 42.

The Complainant maintains various domain names, including <elasticsearch.com> and <elastic.co>, that resolve to its official websites.

The disputed domain name was registered on March 28, 2023.

On December 29, 2024, the disputed domain name resolved to a webpage offering the disputed domain name for sale, with a “buy now” price of USD 2,538. Under the heading “About ElasticJobs.com”, the webpage stated:

“ElasticJobs.com is a short and catchy domain name that evokes a sense of adaptability and flexibility in the job market. The word ‘elastic’ creates a powerful metaphor for startups and jobseekers who are able to stretch and mold themselves to fit into new roles and industries. The name is perfect for startups in the recruitment and job search industry, as it suggests a solution that can cater to the constantly changing demands of the job market. The name also creates a visual imagery of a job search engine that can expand and contract, depending on the needs of its users. Overall, ElasticJobs.com is an ideal domain name for startups looking to make their mark in the dynamic and fast-paced world of job recruitment.”

5. Parties’ Contentions

A. Complainant

The Complainant states that, as of April 2024, its ELASTICSEARCH platform has been downloaded over four billion times. It contends that the platform has been adopted for millions of applications by open source communities and developers around the world. It submits that it has directly licensed solutions under its ELASTIC and ELASTICSEARCH trademarks to around 20,000 commercial enterprises in approximately 175

countries. It lists customers including Adobe, BMW, Cisco, Comcast, and Equinix, in addition to many governments, and claims partnerships with organizations including Microsoft, Amazon Web Services, Google, and IBM.

The Complainant provides details of numerous previous cases which it has successfully brought (against other respondents) under the UDRP. It submits that its ELASTIC and ELASTICSEARCH trademarks have been recognized by previous panels under the UDRP to have attained the status of famous or well-known trademarks: see e.g., *elasticsearch B.V. v. Michael Nava*, WIPO Case No. [D2024-4001](#); and *Elasticsearch B.V. v. Host Master, Transure Enterprise Ltd*, WIPO Case No. [D2023-2937](#).

The Complainant submits that it has over 155 active trademarks registrations or applications for the marks ELASTIC and ELASTICSEARCH throughout the world, together with more than 110 domain names incorporating those marks.

The Complainant contends that the disputed domain name is confusingly similar to its ELASTIC and ELASTICSEARCH trademarks. It contends that the term “elastic” is the primary and prominent element of the disputed domain name, and that the addition of the word “jobs” does not distinguish the disputed domain name from the Complainant’s trademarks but is designed only to confuse Internet users into believing that the disputed domain name is associated or affiliated with the Complainant.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no relationship with the Respondent and has never authorized it to use its ELASTIC or ELASTICSEARCH trademarks, that the Respondent has not commonly been known by the disputed domain name, and that the Respondent is making neither bona fide commercial use nor legitimate noncommercial or fair use of the disputed domain name.

The Complainant contends, in particular, that the Respondent has never used the disputed domain name in connection with any legitimate commercial offering. It notes the Respondent’s assertion (made in correspondence prior to the proceeding) that it intended to “develop a service related to remote job opportunities or to sell the domain” but denies that the Respondent has offered any relevant services. The Complainant submits that, instead, in view of the well-known status of the Complainant’s trademarks, the Respondent registered the disputed domain name only to engage Internet users under false pretenses, and to profit from the Complainant’s ELASTIC and ELASTICSEARCH trademarks.

The Complainant adds that the disputed domain name is “ripe for potential malicious use against Complainant and Complainant’s customers and vendors”.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. It repeats its contention that the Respondent must have been aware of its trademarks when it registered the disputed domain name and did so in order to capitalize on the enormous goodwill and marketplace recognition associated with the Complainant’s business. It states that any claim by the Respondent not to have discovered its trademarks upon a trademark search would amount to “willful blindness” on the part of the Respondent.

The Complainant submits, in particular, that Internet users are likely to assume that the disputed domain name is used to promote jobs or employment opportunities being offered by the Complainant.

The Complainant asserts that the Respondent’s registration of the disputed domain name is consistent with establishing a parked domain for “phishing” or “pharming” attacks, which are potentially damaging to the Complainant, its customers, suppliers and other industry participants. The Complainant states that potential “phishing” or “pharming” has been found in other proceedings brought (against other respondents) under the UDRP, and that “[on] information and belief, the [disputed] domain name was registered by Respondent for use as a ‘phishing’ or ‘pharming’ site”.

The Complainant submits that, while having published no content on any website linked to the disputed domain name, the Respondent has offered the disputed domain name for sale for a price in excess of its out-of-pocket costs associated with the registration. It states that the disputed domain name was offered for sale for USD 2,538, whereas prior panels under the UDRP have found a price in excess of USD 1,000 to have exceeded likely registration costs. The Complainant contends in the circumstances that the Respondent registered the disputed domain name in bad faith and for the purpose of selling it to the Complainant for an inflated sum.

The Complainant adds that the Respondent concealed its identity and contact details behind a privacy service, and also that the Respondent failed to reply to a demand letter sent to it on November 26, 2024.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

The Respondent denies the Complainant's contentions. It submits that the disputed domain name was registered and is being used for lawful and legitimate purposes, in a manner consistent with its "generic and descriptive" nature.

The Respondent submits that the Complainant does not own, or claim to own, any trademark for the term "elastic jobs". It denies that that phrase is integral to the Complainant's brand or operations, or that it even appears on the Complainant's website.

The Respondent contends that the term "elastic jobs" is a widely recognized term, commonly used to describe flexible work arrangements. The Respondent exhibits, for example, content from a website at "www.elasticrecruitment.com", which offers "a better way to source professionals and search for roles within the tech industry".

The Respondent exhibits evidence of the use of the word "elastic" by businesses apparently unconnected with the Complainant. Its examples include "www.elasticcare.com" (offering patient management solutions), "www.elasticsuite.com" (offering software for e-commerce platforms), "www.elastictrade.com" (offering tools for financial trading), "www.elasticmind.com" (a mental health coaching platform), and "www.elasticenergy.com" (relating to renewable energy solutions).

The Respondent also refers specifically to the adoption by Microsoft of the term "elastic jobs", which is used in connection with Microsoft's Azure SQL database.

The Respondent submits that, as evidenced by the Complainant's own exhibit, the Respondent has offered the disputed domain name for sale expressly in connection with job-related markets. The Respondent states that the disputed domain name is unrelated to the Complainant or its activities, which relate primarily to technology and data management, and was intended to leverage the descriptive nature of the disputed domain name for resale.

The Respondent contends that the Complainant is unable to demonstrate that the Respondent has targeted its trademarks. It states that it had no knowledge of the Complainant's trademarks at the time it registered the disputed domain name, and that having conducted a "diligent search" of trademark databases including EUIPO, USPTO, and WIPO, it found no evidence of a trademark for the term "elastic jobs".

The Respondent submits that it has no history of registering domain names to disrupt business or to mislead consumers.

The Respondent states further that it is open to resolving the matter in good faith, i.e., to consider a reasonable offer reflecting the value of the disputed domain name, costs incurred and lost opportunities.

The Respondent submits that the Complainant's filing constitutes an attempt at reverse domain name hijacking. It contends, in particular, that the Complainant does not hold any exclusive rights in the term "elastic jobs", that the Complainant has provided no evidence of the Respondent targeting its trademarks, and that the Complainant is using the UDRP process to acquire the disputed domain name in bad faith.

C. Parties' Unsolicited Supplemental Filings

Unsolicited supplemental filings are generally discouraged under the UDRP, which is intended to constitute an efficient and informal dispute resolution mechanism. While panels retain the discretion to admit additional submissions or evidence (see paragraph 10 of the Rules) this will rarely be exercised in the absence of a persuasive reason why such material was omitted from the parties' original pleadings, or some other exceptional circumstances being present.

In this case, the Panel finds the Parties' unsolicited supplemental filings to be largely repetitive of the matters contained in their initial pleadings, and/or argumentative. To the limited extent that the unsolicited supplemental filings contain any material that could not reasonably have been included in the parties' initial filings, or which is otherwise legitimately included in an unsolicited supplemental filing, the Panel summarises those matters below.

The Complainant contends that the Respondent has misrepresented third-party use of the term "elastic jobs", including by exhibiting edited Google search results. The Complainant exhibits Google search results which include the item "Careers", linking to its website at "www.elastic.co" and "Careers at Elastic", linking to "www.jobs.elastic.co".

The Complainant submits that the Respondent's reliance of Microsoft's use of the term "elastic jobs" is misconceived, since Microsoft is a partner of the Complainant and licensed to use its products in connection with its Azure platform.

The Complainant reiterates its contentions that the disputed domain name may be used for a fraudulent "phishing" campaign aimed at obtaining personal information from job applicants.

The Complainant refutes the Respondent's allegation of reverse domain name hijacking. It contends that it had a reasonable basis, supported by evidence, for advancing its case under each of the three elements required by the Policy.

The Respondent contends that Google search results are not determinative of the Complainant's rights. It states that, in any event, the majority of such results relate to third-party businesses, and that the Complainant does not itself use the term "elastic jobs" to indicate its business.

The Respondent submits that the Complainant's reference to its partnership with Microsoft is misleading, as Microsoft uses the term "elastic jobs" to describe a process, and not to reference the Complainant.

The Respondent takes exception to the Complainant's allegations that the disputed domain name is liable to be used for "phishing", and the Complainant's attempts to link this claim to previous proceedings it has taken against other respondents.

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are 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 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 established that it is the owner of registered trademark rights in respect of the mark ELASTIC. The disputed domain name incorporates that mark in full, together with the additional word "jobs", which does not prevent the Complainant's trademark from being recognizable within the disputed domain name.

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

The Panel does not, however, find the Complainant's trademark ELASTICSEARCH to be recognizable within the disputed domain name, or that the disputed domain name is otherwise confusingly similar to that trademark.

B. Rights or Legitimate Interests

The Respondent claims to have registered the disputed domain name, and to have offered it for sale, because of its attraction as a "generic and descriptive" name, describing flexible opportunities within the jobs and recruitment market. The Complainant asserts, on the contrary, that the Respondent has made no legitimate use of the disputed domain name for any bona fide purpose and registered it only for the purpose of taking unfair advantage of the Complainant's goodwill in its trademarks, and/or selling it to the Complainant for a sum in excess of its out-of-pocket costs connected with the registration.

In the view of the Panel, a speculator in domain names is entitled to register and to offer to sell a domain name comprised of dictionary terms, for a purpose legitimately connected with those dictionary terms, provided that the disputed domain name was not in fact registered to target a trademark owner's rights.

In this case, the Respondent has made out a credible case that the combination of the dictionary words "elastic" and "jobs" could form a domain name suggestive of flexibility in the jobs and recruitment market. In this regard, the Panel accepts the Respondent's evidence of widespread use of the term "elastic", by a variety of parties in various fields of commerce, to indicate flexibility.

As to the countervailing submission of targeting, the Panel notes that the Complainant's relevant trademark is ELASTIC, finds that its other trademark ELASTICSEARCH is of limited value to the Complainant's case, and notes that the Complainant does not claim any trademark rights in term combined term "elastic jobs".

While the Complainant places considerable reliance on the success of its prior proceedings under the UDRP, the Panel notes that, in all but one of the relevant cases, the disputed domain name included the term "elasticsearch", and not merely "elastic". (In the one exception, which concerned the domain name <elasticcloud.net>, the respondent was found to have engaged in a pattern of bad faith registrations.)

Nor does the Panel find there to be any evidence that that the Respondent set out to target the Complainant's trademarks. The Complainant's trademark is used by the Complainant in connection with search and analytics software. At the same time, the mark is also a dictionary word capable of non-trademark meanings, and particularly in respect of this case, a term that seems to have been adopted in a

jobs-related context such that it raises a question about any implied intention to target the Complainant's mark and business goodwill.

In the circumstances, albeit mindful that the Respondent may be taking cover under the non-trademark meaning of the term elastic - but bearing in mind that the burden of showing that it is being targeted is on the Complainant, the Panel finds that the second element under the Policy has not been established on the available evidence.

C. Registered and Used in Bad Faith

In the light of the Panel's findings under the second element of the Policy, it is unnecessary for the Panel to determine the issues of registration and use of the disputed domain name in bad faith. The Panel briefly observes, however, that for the same reasons as set out above, it does not consider that the Complainant has established on the evidence presented by it, that the Respondent either registered, or has used, the disputed domain name in bad faith. The Respondent has made out a sufficiently plausible case for the registration and use of the disputed domain name, and the Complainant has failed to point to circumstances leading to a conclusion of targeting of its trademarks. The Panel finds there to be no basis for the Complainant's "information and belief" that the disputed domain name was registered for the purpose of "phishing" or "pharming" (and notes that the UDRP is based on the evidence submitted and is not (as in US litigation) based on notice pleading followed by discovery). Nor is the price sought by the Respondent for the disputed domain name indicative of bad faith in the circumstances.

D. Reverse Domain Name Hijacking

Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at reverse domain name hijacking or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute reverse domain name hijacking: [WIPO Overview 3.0](#), section 4.16.

In this case, while the Complainant has failed to meet the burden under the Policy of demonstrating that the Respondent targeted the Complainant's trademark, the Panel does not find that this was a belief which the Complainant could not reasonably have held, or that the Complainant knew or ought to have known that it claim would inevitably fail: the Panel does not find this to be case of acting in bad faith.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: February 12, 2025