

## ADMINISTRATIVE PANEL DECISION

elasticsearch B.V. v. Anurag Goel, Render  
Case No. D2024-3999

### 1. The Parties

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

The Respondent is Anurag Goel, Render, United States.

### 2. The Domain Name and Registrar

The disputed domain name <deployelasticsearch.com> is registered with CloudFlare, Inc. (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 29, 2024. On September 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 1, 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 (CloudFlare, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 2, 2024, 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 October 8, 2024.

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 October 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 30, 2024.

The Center appointed Zoltán Takács as the sole panelist in this matter on November 4, 2024. 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.

#### **4. Factual Background**

The Complainant, founded in 2012 and previously known as Elasticsearch is an American-Dutch software company that provides self-managed and software as a services (SaaS) offerings for search, logging, security, observability and analytics use cases.

In 2010 the Complainant released its technology called Elasticsearch, which is a distributed, open-source, real-time search and analytics engine used among others by eBay, Wikipedia, Uber, Lyft, Tinder and Netflix.

The Complainant portfolio of ELASTICSEARCH trademarks include among others the United States Trademark Registration No. 4212205 with the registration date of September 25, 2012.

The Complainant is also owner of a number of domain registrations that include its ELASTICSEARCH mark. For example, the domain name <elasticsearch.org>, which was registered on September 22, 2009, resolves to the Complainant's corporate website at "www.elastic.co".

The disputed domain name was registered on October 29, 2019. At the time of filing of the Complaint and at the time of rendering of the decision the disputed domain name resolved to an inactive static web page stating: "Error 1000 DNS points to prohibited IP".

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

- (i) the disputed domain name, which incorporates its ELASTICSEARCH mark is confusingly similar to it because the addition of the term "deploy", which is commonly used in connection with the Complainant's products and services and with the digital technology solutions in general is not sufficient to distinguish the disputed domain name from its mark;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name and is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii) or (iii) or the Policy; and
- (iii) the Respondent's misappropriation of its famous mark in order to create a likelihood of confusion by suggesting to Internet users that the disputed domain name relates to the Complainant is evidence of bad faith.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

##### **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## 6. Discussion and Findings

In order to succeed on a complaint a Complainant must evidence each of the three elements required by paragraph 4(a) of the Policy, namely that:

- (i) the 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 domain name; and
- (iii) the 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 shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The ELASTICSEARCH mark is replicated and recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here the term "deploy" may bear on assessment of the second and third elements, the Panel finds that the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

### B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

In the present case, the Complainant has submitted sufficient and uncontested evidence that it holds well-established prior rights in the ELASTICSEARCH mark. The Complainant has never authorized the Respondent to use its mark, in a domain name, or otherwise.

There is no evidence that the Respondent is commonly known by the dispute domain name.

As mentioned above the disputed domain name has been resolving to a static web page stating: "Error 1000 DNS points to prohibited IP". Such use of the disputed domain name does not represent bona fide offering of goods or services since it trades on reputation and goodwill associated with the Complainant.

In addition, the composition of the disputed domain name as mentioned above carries risk of implied affiliation with the Complainant and its mark and cannot constitute fair use of the disputed domain name. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds that the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case the Panel notes that the ELASTICSEARCH mark is distinctive and unique to the Complainant; a basic Internet search returns solely the Complainant and its business.

The Respondent failed to respond to the Complaint and offer any explanation why it registered the disputed domain name constructed of the Complainant's mark and a term "deploy" which is commonly used in digital technology industry and directly refers to the Complainant's business.

Thus, in the Panel's opinion it is highly unlikely that the Respondent registered the disputed domain name without having the Complainant's mark in mind and for any other reason other than to confuse Internet users with an association with the Complainant and its mark.

Targeting the Complainant and its mark is a fraudulent conduct as such and evidence of registration of the disputed domain name in bad faith. [WIPO Overview 3.0](#), sections 3.2.1 and 3.2.2.

As mentioned above, there is no evidence that the disputed domain name has resolved to an active site.

However, from the inception of the UDRP, panelists have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel in this context notes the distinctiveness and reputation of the Complainant's trademark, the composition of the disputed domain name and the Respondent's failure to submit a response and provide any evidence of actual or contemplated good faith-use of the dispute domain name.

The Panel finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy and that the Complainant has established the third element of the Policy.

## 7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <deployelasticsearch.com> be transferred to the Complainant.

*/Zoltán Takács/*

**Zoltán Takács**

Sole Panelist

Date: November 18, 2024