

## **ADMINISTRATIVE PANEL DECISION**

Elliott Investment Management L.P. v. Brandon Won  
Case No. D2024-1445

### **1. The Parties**

Complainant is Elliott Investment Management L.P., United States of America (“United States”), represented by ZwillGen PLLC, United States.

Respondent is Brandon Won, United States, self-represented.

### **2. The Domain Name and Registrar**

The disputed domain name <eliotmgmt.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 4, 2024. On April 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 5, 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 (Private Registrant GoDaddy.com, LLC, Registration Private Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on April 9, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on April 11, 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 Respondent of the Complaint, and the proceedings commenced on April 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 2, 2024. The Response was filed with the Center on April 11, 2024. Respondent sent an email communication to the Center on May 7, 2024.

The Center appointed Georges Nahitchevansky as the sole panelist in this matter on May 17, 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.

On May 29, 2024, the Panel issued a Procedural Order, requesting that Respondent provide copies of two exhibits referenced by Respondent in his Response, but which seemed to be missing in the record. Respondent provided such exhibits on June 2, 2024.

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

Complainant, Elliott Investment Management L.P., is an investment management firm. Complainant owns and uses the name and mark ELLIOTT in connection with its financial services and owns a United States trademark registration for ELLIOTT (stylized characters) (Registration No. 3250277) that issued to registration on June 12, 2007. Complainant also owns and uses the domain name <elliottmgmt.com> to provide information concerning Complainant and its services.

Respondent, Brandon Won, is an individual based in the United States. Respondent owns a company by the name of Eliot Consulting Group LLC that purports to provide marketing and advisory services. Respondent registered the disputed domain name on March 20, 2024. The disputed domain name does not currently resolve to an active page or website.

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

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

Complainant maintains that it owns rights in the ELLIOTT mark by virtue of its registration and use of the mark in connection with its financial services.

Complainant asserts that the disputed domain name is confusingly similar to Complainant's ELLIOTT mark and that it resembles the <elliottmgmt.com> domain name used by Complainant.

Complainant contends that Respondent has no rights or legitimate interests in the disputed domain name as Respondent could use the disputed domain name "as 'bait' to pose as Elliott and defraud potential investors and Elliott employees," and (ii) has solicited funds using references to the disputed domain name to confuse third parties and profit from Complainant's reputation.

Lastly, Complainant argues that Respondent's registration and use of the disputed domain name has been in bad faith as the disputed domain name consists of the ELLIOTT mark and Complainant's firm name and was meant to impersonate Complainant so as to confuse Internet users and defraud investors and Elliott employees. Complainant further argues that Respondent has acted in bad faith by passively holding the disputed domain name.

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

Respondent rejects Complainant's contentions.

Respondent maintains that he owns a marketing and advisory agency by the name of Eliot Consulting Group LLC and that he has sought to expand his agency's services into the influencer management sector. Respondent asserts that the choice of the disputed domain name for his business was inspired by Eliot House, a residence during Respondent's time at Harvard University. Respondent further asserts that the use of ELIOT in the disputed domain name was primarily based on the sentimental association with Eliot House and that the use of "mgmt" is a standard practice in the influencer management industry.

Lastly, Respondent contends that he has never “attempted to misrepresent itself as part of or associated with [Complainant].”

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was 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 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.

Complainant has shown rights in respect of its ELLIOTT trademark for purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The Panel finds the ELLIOTT mark is 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 the abbreviation “mgmt” (for “management”) may bear on an assessment of the second and third elements, the Panel finds the addition of such abbreviation 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 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.

Here, while Complainant has established that it owns some rights in the ELLIOTT mark in connection with certain financial services, Complainant has provided no evidence regarding the scope of reputation or notoriety of Complainant and its ELLIOTT mark. To be sure, as “Eliot” or “Elliott” are common names, it would be expected from Complainant to establish the strength and reputation of its mark in at least its field.

Complainant's entire case rests on an argument that Respondent is attempting to defraud investors and Elliott employees because the disputed domain name is essentially similar to Complainant's <elliottmgmt.com> domain name. In that regard, Complainant claims that Respondent has sought to solicit funds using references to the disputed domain name. Complainant's supporting evidence, however, is lacking. Complainant's only alleged evidence consists of a one-page document that shows a standard blank GoDaddy online payment form that is undated, which does not include any information where this page was found or originated from, and which merely shows a title above the form that reads "Eliot Management." The page in itself does not show an attempt by Respondent to solicit anyone by riding on the purported reputation of Complainant or to defraud investors or employees as Complainant claims. There is simply nothing in the record that establishes or even suggests that Respondent has solicited any third party by claiming a connection to Complainant. Moreover, Complainant contradicts itself when making such claims regarding the active use of the disputed domain name, insofar as the Complaint later states that the Respondent "may use" the disputed domain name for such fraudulent purposes and approaches the Respondent's registration and use of the disputed domain name as "passive holding" that necessarily implicates a lack of active use.

In contrast, Respondent has provided proof of his ownership of the limited liability company Eliot Consulting Group LLC, which was formed in October 2023, along with some documents that seem to show Respondent's connection to Harvard and Eliot House and/or which purport to relate to services being offered by Respondent through his agency. As to the latter set of documents, these are not altogether clear and seem to be from mostly February through April 2024, but reflect a demonstrable preparation to use the disputed domain name in connection with a "talent manager consultancy", services which do not concern or relate to financial services.

In all, the Panel is faced with a Complaint that has little evidence and many conclusory statements. Such unsupported conclusory allegations are insufficient to prove a party's case. [WIPO Overview 3.0](#) at sections 3.1 and 4.2. The only fact that is not in dispute, here, is that the disputed domain name and Complainant's <elliottmgmt.com> domain name are similar. But as "Eliot" and "Eliott" are common names used in what appears to be two different fields, the mere use of the common abbreviation "mgmt" for "management" seems more like a coincidence than an attempt to ride on Complainant's reputation, particularly in view of Complainant's failure to provide evidence to support its claims of fraud, impersonation, and illegal activity.<sup>1</sup>

Consequently, the Panel finds the second element of the Policy has not been established.

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

Given that Complainant's Complaint fails on the second element, as discussed above, the Panel does not need to address whether Respondent has registered and used the disputed domain name in bad faith. The Panel, however, again notes that Complainant's sparse evidence in this matter fails to establish that Respondent registered or used the disputed domain name in bad faith, particularly as the limited evidence does not show that Respondent sought to profit from the disputed domain name at the expense of Complainant as opposed to using such for a what might be a legitimate business.

To be sure, to the extent that Complainant may have a claim against Respondent for trademark infringement or unfair competition, such a claim belongs in another forum and is beyond the scope of a UDRP proceeding. Here, it has not been established by Complainant that Respondent lacks rights or legitimate interests or has registered and used the disputed domain name in bad faith to take advantage of Complainant's rights in its claimed ELLIOTT mark and thus Complainant's Complaint fails.

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<sup>1</sup>Complainant's evidence consists of three exhibits: a Whois record for the disputed domain name, a copy of Complainant's United States trademark registration, and the one-page blank GoDaddy online payment form.

## 7. Decision

For the foregoing reasons, the Complaint is denied.

*/Georges Nahitchevansky/*

**Georges Nahitchevansky**

Sole Panelist

Date: June 4, 2024