

## **ADMINISTRATIVE PANEL DECISION**

EE Holding Group LLC v. Zahid Iqbal, E Commerce  
Case No. D2024-3193

### **1. The Parties**

The Complainant is EE Holding Group LLC, United States of America (“USA” or “US”), represented by The Sladkus Law Group, USA.

The Respondent is Zahid Iqbal, E Commerce, Pakistan.

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

The disputed domain name <ericmanuelsofficial.net> is registered with Name.com, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 5, 2024. On August 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 6, 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 (Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 7, 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 amendment to the Complaint on August 7, 2024.

The Center verified that the Complaint together with the amendment to the 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 August 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 1, 2024. The Respondent sent email communications to the Center on August 7 and 14, 2024.

The Center appointed Clive Duncan Thorne as the sole panelist in this matter on September 13, 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 is a limited liability company organized under the laws of Delaware, USA. It is the owner of all intellectual property rights including trade mark rights of the fashion designer Eric Emanuel. Eric Emanuel is an independent sportswear designer who has built his business from the ground up. He first gained a reputation in the fashion industry by designing custom python basketball jerseys, which became popular with musical artists such as Travis Scott, ASAP Rocky, Future, and more.

Today, his sportswear collection is widely recognized for its signature EE mesh shorts and sneaker and apparel collaboration with brands like adidas, Reebok, and New Era. It is relevant that the Complainant only sells its authentic goods through its website at “www.ericmanuel.com”, in person at one of its two store fronts in New York and Miami and through partnership with other authorized retailers. Annexed at Annex 5 to the Complaint are screenshots of its website.

The Complainant owns various registered and common law trade marks including ERIC EMANUEL, EE, and a stylized design mark EE for its products.

The Complainant adduces evidence at Annex 6 of, inter alia, one US Federal Trade Mark registration and one International Trade Mark Registration for the mark ERIC EMANUEL as follows;

US Registration 6721224 dated May 24, 2022 in class 25 for selected items of clothing.

International Registration 1762468 dated October 11, 2023 in class 25 for selected items of clothing.

The Complainant also adduces evidence of a US Trade Mark Application 98193520 dated September 22, 2023 for selected leather goods in Class 18.

The above evidence which the Panel finds to be true is set out in the Declaration of Lawrence Berger an Authorized Officer for the Complainant dated January 26, 2024, exhibited at Annex 4.

The disputed domain name was registered on October 8, 2023 which is after the date of US registration 6721224 but before the date of registration of International Registration on October 11, 2023 though the latter was based upon US application 98193520 which was dated on September 22, 2023.

The Complainant, in Lawrence Berger’s Declaration at paragraphs 17 and 18, points out that it spends considerable time and resources fighting infringers such as the Respondent and states that the “Respondent in this case is part of the problem. Respondent is not and has never been authorized to use any of the EE Marks in any manner”. EE Marks are defined as including the mark ERIC EMANUEL.

The Complainant points out that the disputed domain name presently resolves to the Respondent’s website which it describes as fraudulent and which is designed to “mimic” the Complainant’s official website and deceive customers into believing that it is the Complainant’s official website or an otherwise authorized retail channel. Screenshots of the Respondent’s website are annexed at Annex 7. The Complainant explains that at that website the Respondent is selling counterfeit ERIC EMANUEL clothing and apparel at prices which are disproportionately below market value. It can be seen from Annex 7 that many of the items of clothing offered for sale are described, contrary to the Complainant’s evidence, as ERIC EMANUEL products, when they are not.

## 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. On the Complainant's evidence the disputed domain name incorporates the Complainant's registered trade mark ERIC EMANUEL in its entirety and that it is confusingly similar to the Complainant's trade mark ERIC EMANUEL.
- ii. There is no evidence that the Respondent has any rights or legitimate interests in respect of the disputed domain name. In particular the Respondent has not been authorized to register or otherwise use the disputed domain name. The Respondent has not responded to the Complaint and demonstrated any rights or legitimate interests in the disputed domain name.
- iii. The evidence shows that the Respondent registered and is using the disputed domain name in bad faith and is aware of the Complainant's rights.

### B. Respondent

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

## 6. Discussion and Findings

### 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 entirety of the mark is reproduced 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.

The Panel takes into account that in addition to reproduction of the entirety of the mark the disputed domain name consists only of the lower case letter "s" reproduced after "ericmanuel" and subsequently the term "official". The Complainant submits that this does not negate confusing similarity.

Although the addition of the letter "s" and term "official", may bear on assessment of the second and third elements, the Panel finds the addition of these terms 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.

Panels have held that the use of a domain name for illegal activity here, claimed as applicable to this case: sale of counterfeit goods from a fraudulent website may, never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. Furthermore, irrespective of whether the goods on the website are counterfeit or not, the Panel notes that the composition of the disputed domain name coupled with its use creates an impermissible risk of affiliation or impersonation.

The Panel finds 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.

Panels have held that the use of a domain name for illegal activity here, claimed as applicable to this case: sale of counterfeit goods, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

In reaching this conclusion the Panel takes into account the evidence of the Respondent’s website which is designed to “mimic” the Complainant’s official website to deceive consumers into believing that it is the Complainant’s official website or an otherwise authorized retail channel. The Complainant has identified from the screenshots of the Respondent’s website at Annex 7 that the clothing offered for sale as ERIC EMANUEL is counterfeit. In any case, the registration of the disputed domain name reproducing the Complainant’s trade mark with the term “official”, and its use of the disputed domain name for a website designed to give an appearance of being the Complainant’s official website or affiliated, lead the Panel to the conclusion that the disputed domain name was registered and used in bad faith.

The Panel finds 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 <ericmanuelsofficial.net> be transferred to the Complainant

*/Clive Duncan Thorne/*

**Clive Duncan Thorne**

Sole Panelist

Date: September 27, 2024