

## **ADMINISTRATIVE PANEL DECISION**

**Elliott Investment Management L.P. v. Adnan BDS, Private Registrant /  
GoDaddy.com, LLC  
Case No. D2024-3534**

### **1. The Parties**

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

The Respondent is Adnan BDS, Israel.

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

The disputed domain name <elliottimgmt.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 August 30, 2024. On September 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 2, 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 (Registration Private, Domains by Proxy, LLC/Private Registrant, GoDaddy.com, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 4, 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 September 5, 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 September 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 30, 2024.

The Center appointed Francine Tan as the sole panelist in this matter on October 3, 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 global investment management firm with offices located in the U.S. and Europe.

The Complainant owns U.S. trade mark registration No. 3250277 for ELLIOTT, registered on June 12, 2007.

The Complainant's primary domain name, <elliottmgmt.com> ("the Complainant's domain name"), was registered on May 2, 2000.

The disputed domain name was registered on August 27, 2024, and resolves to an inactive website.

#### **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:

- The disputed domain name is confusingly similar to the Complainant's ELLIOTT trade mark, and the Complainant's domain name. The disputed domain name is designed to resemble an abbreviated form of the Complainant's name, and also resembles the Complainant's domain name. The Respondent has also configured attempts to access the disputed domain name to result in eventually browsing to the Complainant's website at "www.elliottmgmt.com". This demonstrates that the Respondent is very likely attempting to deceive Internet users into believing that the disputed domain name is associated with the Complainant.
- The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent may use the disputed domain name to pose as the Complainant and defraud potential investors, the Complainant's employees, and other third parties. The disputed domain name was registered more than 20 years after the registration of the Complainant's domain name. The Respondent is using the disputed domain name to impersonate or pass off as the Complainant.
- The disputed domain name was registered and is being used in bad faith. The disputed domain name consists of the Complainant's ELLIOTT trade mark, which is also part of its name "Elliott Investment Management". The disputed domain name is therefore aimed at confusing Internet users, and defrauding investors and the Complainant's employees. Further, the disputed domain name is likely to be viewed erroneously by email recipients as a legitimate email address for messages from the Complainant's <elliottmgmt.com> email address. Although the Respondent is passively holding the disputed domain name, panels in past UDRP decisions have held that passive use can constitute bad faith registration and use.

##### **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 trade mark 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 trade mark 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 addition of the letters "imgmt" does not prevent a finding of confusing similarity with the Complainant's trade mark. [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 a 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.

The Panel notes that the Respondent's name is "Adnan BDS", and there is no evidence that he is commonly known by the disputed domain name or "Elliott". The Respondent has also not furnished any evidence that he has any rights, or legitimate interests in the disputed domain name or that he was authorized by the Complainant to use the ELLIOTT trade mark, whether in a domain name or otherwise.

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.

The disputed domain name was registered long after the Complainant's ELLIOTT trade mark was registered and used. The disputed domain name incorporates the entirety of the Complainant's trade mark with the addition of the letters "imgmt" which correspond to the terms "Investment Management" which feature in the Complainant's name. The fact that the disputed domain name differs from the Complainant's domain name by only one letter "i", which is not easily discernible as it is juxtaposed with the letter "t", strongly suggests that the disputed domain name was deliberately registered by the Respondent to benefit from the foreseeable confusion arising from its close identity to the Complainant's domain name. The disputed domain name could therefore be said to be a "typosquatted" version of the Complainant's domain name. The Panel is persuaded that the Respondent knew of and targeted the Complainant and its ELLIOTT trade mark at the time he registered the disputed domain name. Moreover, the Respondent's lack of rights or legitimate interests in the disputed domain name and failure to explain his choice of the disputed domain name further support a finding of bad faith registration in this case.

The Panel is persuaded that the ultimate aim of the Respondent's registration of the disputed domain name to be for the purpose of creating a likelihood of confusion with the Complainant's mark or the Complainant's domain name.

The fact that the disputed domain name does not appear to have been used as yet does not alter the Panel's view that the disputed domain name is used in bad faith for the purposes of the Policy. Panels have found that the non-use of a domain name (including a blank or "coming soon" page) 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 notes the reputation of the Complainant's trade mark, the composition of the disputed domain name and implausibility of any good faith use to which the disputed domain name may be put, and 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. Accordingly, the Panel concludes 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 <elliottimgmt.com> be transferred to the Complainant.

*/Francine Tan/*

**Francine Tan**

Sole Panelist

Date: October 15, 2024