

ADMINISTRATIVE PANEL DECISION

Elliott Investment Management L.P. v. DNS Admin, Buntai LTD
Case No. D2023-3478

1. The Parties

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

The Respondent is DNS Admin, Buntai LTD, Switzerland.

2. The Domain Name and Registrar

The disputed domain name <accesselliottmgmt.com> is registered with Key-Systems GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 16, 2023. On August 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 17, 2023, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 18, 2023, 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 August 21, 2023.

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 August 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 11, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 12, 2023.

The Center appointed Steven A. Maier as the sole panelist in this matter on September 14, 2023. 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 provider of investment management services.

The Complainant is the owner of United States trademark registration number 3250277 for the word mark ELLIOTT, registered on June 12, 2007, for services including investment management in International Class 36.

The Complainant operates websites in connection with its services at URLs including “www.elliottmgmt.com” and “www.access.elliottmgmt.com”.

The disputed domain name was registered on August 8, 2023.

There is no evidence that the disputed domain name has resolved to any active website.

5. Parties' Contentions

A. Complainant

The Complainant states that it is a global investment management firm with offices in the United States, Europe, and Asia and that it has maintained an Internet presence through its websites since May 2, 2000.

The Complainant submits that the disputed domain name is confusingly similar to its ELLIOTT trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant contends that the disputed domain name is clearly designed to impersonate the Complainant, and in particular its URL at “www.access.elliottmgmt.com”. The Complainant submits that the Respondent cannot have rights or legitimate interests in respect of a domain name that has been registered for the purpose of business impersonation fraud.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. It contends that the disputed domain name can only be intended to confuse Internet users, investors and the Complainant's employees, potentially by way of email fraud. The Complainant submits that the passive holding of the disputed domain name to date does not preclude a finding of bad faith in the circumstances of the case (see *e.g.*, *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The Complainant submits that the Respondent has previously been found to have acted in bad faith. It cites the decision under the UDRP in *Inventio AG v. DNS Admin, Buntai LTD*, WIPO Case No. [D2023-2468](#), involving the domain name <schinderelevatros.com>.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

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

The Complainant has established that it is the owner of registered trademark rights in the mark ELLIOTT. The disputed domain name incorporates that trademark, together with the prefix “access” and the suffix “mgmt”, neither of which terms 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.

B. Rights or Legitimate Interests

For the reasons discussed below, the Panel finds that the disputed domain name was registered in bad faith and as an instrument of fraud. A registration for such purposes cannot give rise to rights or legitimate interests in respect of the disputed domain name and the Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

In view of the Complainant’s URL at “www.access.elliottmgmt.com”, the Panel finds it impossible to reach any conclusion other than that the disputed domain name was registered in an attempt directly to impersonate the Complainant. The Complainant’s URL is distinctive in nature and the disputed domain name differs from it only by the removal of the dot between “access” and “elliottmgmt”. The Respondent has offered no explanation for its registration of the disputed domain name and the Panel can only infer in the circumstances that it was registered as an instrument of fraud, with the intention of confusing Internet users and/or email recipients into believing that the disputed domain name was that of the Complainant. The fact that there is no evidence that the disputed domain name has resolved to any active website does not preclude a finding of bad faith in these circumstances and the Panel finds that the disputed domain name was registered and is being used in bad faith.

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, <accesselliottmgmt.com>, be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: September 28, 2023