

## **ADMINISTRATIVE PANEL DECISION**

Elliott Investment Management L.P. v. pat chris, empato  
Case No. D2023-3793

### **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 pat chris, empato, Nigeria.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 9, 2023. On September 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 12, 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 (Privacy service provided by Withheld for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 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 amendment to the Complaint on September 22, 2023.

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 September 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 18, 2023.

The Center appointed Zoltán Takács as the sole panelist in this matter on October 23, 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**

Founded in 1977, the Complainant (together with its affiliates, “Elliott”) is one of the oldest investment managers of its kind under continuous management, with offices located in the United States, Europe and Asia.

As of June 30, 2023, Elliott manages approximately 59.2 billion in assets and employs a staff of 55 people.

The Elliott Management Corporation, which was founded by Paul Singer, is owner of the United States Trademark Registration No. 3250277 for the word mark ELLIOTT, which was registered with the United States Patent and Trademark Office (“USPTO”) on June 12, 2007, for investment management, financial services in the nature of investment advisory in Class 36. The USPTO record states that “The mark “ELLIOTT” is the middle name of applicant’s President, Paul Elliott Singer”.

Paul Singer is also the founder, president, co-chief executive officer, and co-chief investment officer of the Complainant, Elliott Investment Management L.P.

Since May 2, 2000, the Complainant owns the domain name <elliottmgmt.com>, which serves as its primary Internet presence and point of contact for employees, investors and media.

The disputed domain name was registered on August 22, 2022, and appears not to have resolved to an active 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 ELLIOTT trademark, since it incorporates the trademark and is designed to resemble the Complainant’s name in abbreviated form, Elliott MGMT” and its primary website “www.elliottmgmt”;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- by using in the disputed domain name, the ELLIOTT trademark in conjunction with a reference to Elliott’s core business of investment management the Respondent plainly aims to pose as Elliott and deceive potential website visitors and email recipients.

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

Paragraph 15(a) of the Rules requires that the Panel's decision be made "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely 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

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.

Based on the available record, the Panel finds 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.

As mentioned above, Paul Elliott Singer is the founder and executive officer of both the Complainant and the trademark owner. A trademark owner's affiliate such as a subsidiary of a parent or of a holding company, or an exclusive trademark licensee, is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint. [WIPO Overview 3.0](#), section 1.4.1.

The ELLIOTT mark is fully reproduced and evidently recognizable in the disputed domain name. The only difference is that the abbreviation "mgmt", which is commonly used as a short form for the term "management" is replaced in the disputed domain name with the confusingly similar abbreviation "rngmt".

Accordingly, the disputed domain name is confusingly similar to the trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, 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.

While 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 often impossible 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. 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 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.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2;
- the Respondent (as an individual, business, or other organization) has not been commonly known by the disputed domain name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3;
- the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4; and
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the disputed domain name.

In addition, the disputed domain name, consisting of the trademark plus addition of a term with a typographical error "rngmt" does not suggest good faith use.

Based on the available record, 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.

In the present case, the Panel notes that the Respondent chose not to respond to the Complaint and the Complainant's contentions and provide any explanation why it registered a domain name confusingly similar to the Complainant's trademark.

The disputed domain name fully incorporates the ELLIOTT trademark and closely resembles the Complainant's domain name <elliottmgmt.com>. In view of the Panel, such composition of the disputed domain name in all likelihood cannot refer to anyone else but the Complainant. These facts and circumstances indicate the Respondent's bad faith, namely that the Respondent clearly had in mind the Complainant and its business at the time of obtaining the disputed domain name, which the Respondent registered in order to target the Complainant's trademark. [WIPO Overview 3.0](#), section 3.2.1.

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

Having reviewed the record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3.

Noting the above mentioned composition of the disputed domain name and that any good faith use to which the disputed domain name may be put appears to be implausible 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.

Based on the available record, the Panel finds the third element of the Policy has been established.

## **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 <elliotttrngmt.com> be transferred to the Complainant.

*/Zoltán Takács/*

**Zoltán Takács**

Sole Panelist

Date: November 3, 2023