

ADMINISTRATIVE PANEL DECISION

Elliot Ackerman v. TO eightto
Case No. D2026-3342

1. The Parties

The Complainant is Elliot Ackerman, United States of America (“United States”), represented by Arnold & Porter Kaye Scholer LLP, United States.

The Respondent is TO eightto, Thailand.

2. The Domain Name and Registrar

The disputed domain name <elliotaackerman.com> (the “Domain Name”) 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 July 29, 2026. On July 30, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 3, 2026, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 5, 2026, 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 5, 2026.

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 6, 2026. In accordance with the Rules, paragraph 5, the due date for Response was August 26, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 31, 2026.

The Center appointed Nicholas Smith as the sole panelist in this matter on September 4, 2026. 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 an American journalist, author and commentator. Since 2014 the Complainant has written and had published numerous non-fiction books relating to United States foreign policy and national security, including *Green on Blue* (2015), *Dark at the Crossing* (2017), *Waiting for Eden* (2018). The Complainant also, under the name and mark Elliot Ackerman (“ELLIOT ACKERMAN Mark”), maintains an active website at “www.elliotackerman.net” and uses his mark in connection with various journalism, public speaking and commentary endeavors. The Complainant has sold approximately 461,000 books in the United States and has received numerous awards for his writing.

The Domain Name was registered on August 14, 2014, but the uncontested evidence in the Complaint indicates that it was held by the Complainant between that date and 2024. The Respondent acquired the Domain Name following expiry of the Complainant’s registration. The Domain Name resolves to a website (the “Respondent’s Website”) that prominently reproduces the ELLIOT ACKERMAN Mark and provides information about the Complainant. The Domain Name contains various statements asserting that it is the official website of the Complainant, including the copyright notice “© Elliot Ackerman”. It contains information about the Complainant’s various books and then includes links to third party websites to enable users to acquire the goods, potentially generating revenue for the Respondent through the affiliate programs operated by those third parties.

5. Parties’ Contentions

A. Complainant

The Complainant contends that he has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Notably, the Complainant contends that:

- a) It is the owner of the ELLIOT ACKERMAN Mark, having acquired common law trademark rights to the ELLIOT ACKERMAN Mark in the United States from 12 years of use and the development of a significant reputation in the mark in the United States. The Domain Name is identical or confusingly similar to the ELLIOT ACKERMAN Mark as it reproduces the ELLIOT ACKERMAN Mark in its entirety and adds the generic Top-Level Domain (“gTLD”) “.com”.
- b) There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the ELLIOT ACKERMAN Mark. The Respondent is not commonly known by the ELLIOT ACKERMAN Mark, nor does it use the Domain Name for a bona fide purpose or legitimate noncommercial purpose. Rather the Respondent is using the Domain Name to pass off as the Complainant for commercial gain and to mislead the public. Such use is not a legitimate use of the Domain Name.
- c) The Domain Name was registered and is being used in bad faith. The Respondent is using the Domain Name to divert Internet users searching for the Complainant to the Respondent’s Website to disrupt the Complainant’s business and for commercial gain. Such conduct amounts to registration and use of the Domain Name in bad faith.

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 Domain Name. WIPO Overview of WIPO Panel Views on Select UDRP Questions ("[WIPO Overview 3.1](#)"), section 1.7.

The Complainant asserts that it has common law rights in the ELLIOT ACKERMAN Mark. The [WIPO Overview 3.1](#), section 1.3 states, in response to the question: "What does a complainant need to show to successfully assert unregistered or common law trademark rights?"

"To establish unregistered or common law trademark rights for purposes of the UDRP, the complainant must show that its mark has become a distinctive identifier which consumers associate with the complainant's goods and/or services.

Relevant evidence demonstrating such acquired distinctiveness (also referred to as secondary meaning) includes a range of factors such as (i) the duration and nature of the use of the mark (which may include social media presence and engagement), (ii) the amount of sales under the mark and during which time period, (iii) the nature and extent of advertising using the mark – including evidence of expenditures over a relevant time period, (iv) the degree of actual public (e.g., consumer, industry such as trade and professional associations, media) recognition, and (v) consumer surveys. The fact that a respondent is shown to have been targeting the complainant's mark (e.g., based on the manner in which the mark is used on the related website or impersonating documents or other instruments) may also support the complainant's assertion and evidence that its mark has achieved significance as a source identifier.

The claimed mark must also be used as a source identifier of goods or services e.g., on a website or on products or packaging used in commerce, provided that the mark, as used, is linked to the goods or services that are being branded with the mark; this may include use by the complainant on letterhead or invoices or email headers and signatures.

The length of time that the mark has been used is not itself determinative. Panels have noted that, nowadays, some brands may rapidly acquire recognition due to a broad and significant Internet presence and user base.

Specific evidence including for example documented evidence of figures relating to sales, marketing, and/or social media endorsements supporting assertions of acquired distinctiveness should be included in the complaint; conclusory allegations of unregistered or common law rights, even if undisputed in the particular UDRP case, would not normally suffice to show secondary meaning.

In cases involving claimed unregistered or common law marks (which may include domain names) that are comprised solely of descriptive terms or acronyms that are not inherently distinctive, panels require the complainant to present relevant and sufficient examples of evidence of acquired distinctiveness/secondary meaning.

As noted in section 1.1.2, for a number of reasons, including the global nature of the Internet and Domain Name System, the fact that secondary meaning may only exist in a particular geographical area or market niche does not preclude the complainant from establishing trademark rights (and as a result, standing) under the UDRP.

Also noting the availability of trademark-like protection under certain national legal doctrines (e.g., unfair competition or passing-off) and considerations of parity, where acquired distinctiveness/secondary meaning is demonstrated in a particular UDRP case, unregistered rights have been found to support standing to proceed with a UDRP case including where the complainant is based in a civil law jurisdiction.

Even where a panel finds that a complainant has UDRP standing based on unregistered or common law trademark rights, the strength of the complainant's mark may be considered relevant in evaluating the second and third elements."

It has long been established that where the personal name concerned is used in commerce to distinguish the goods and services offered by a person under that name, common law trademark rights can be found in the name notwithstanding that there is no trademark registration. Early examples of cases involving authors in which common law rights were found are the cases of *Jeanette Winterson v. Mark Hogarth*, WIPO Case No. [D2000-0235](#) and *Dr. Michael Crichton v. In Stealth Mode*, WIPO Case No. [D2002-0874](#).

In the present case, the Complainant has used the ELLIOT ACKERMAN Mark for over 12 years as the name and mark under which he promotes and provides his published work. The Complainant is a well-known author, having sold approximately 461,000 books under his name and has received numerous awards for his writing. The reading public have come to associate the Complainant's work with his name. The Panel therefore finds that the ELLIOT ACKERMAN Mark is a trademark in which Complainant has rights.

An additional relevant factor in determining whether the Complainant has rights in the ELLIOT ACKERMAN Mark is that the Respondent, in acquiring the Domain Name and using it to mislead visitors as to the source of the Respondent's Website, has clearly targeted the Complainant's ELLIOT ACKERMAN Mark, which supports the assertion by the Complainant that the ELLIOT ACKERMAN Mark has acquired a relevant reputation. Hence, the Panel finds the Complainant has established unregistered trademark or service mark rights for the purposes of the Policy.

The entirety of the mark is reproduced within the Domain Name. Accordingly, the Domain Name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.7.

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 that 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 3.1](#), 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 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 Domain Name such as those enumerated in the Policy or otherwise.

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 Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.1](#), section 2.2.
- the Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.1](#), section 2.3.
- the Respondent is not making a legitimate noncommercial or fair use of the 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 3.1](#), section 2.4.
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Name.

The Respondent has used the Domain Name to impersonate the Complainant by redirecting visitors to the Respondent's Website which, through the provision of information and direct statements (such as "© Elliot Ackerman") passes itself off as the official website of the Complainant. It then contains links to various third-party websites where visitors may acquire the Complainant's books, with the Respondent likely receiving a referral or affiliate fee in return. The use of the ELLIOT ACKERMAN Mark to direct Internet users to third party sites for payment is not a bona fide offering of goods and services.

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 Panel finds that the Respondent must have been aware of the Complainant and its reputation in the ELLIOT ACKERMAN Mark at the time the Respondent registered or acquired the Domain Name as the Respondent has chosen to redirect the Domain Name to a website that actively passes itself off as the official website of the Complainant. The registration of the Domain Name in awareness of the ELLIOT ACKERMAN Mark and in the absence of rights or legitimate interests amounts under these circumstances to registration in bad faith.

Moreover, the Panel notes that at the time the Domain Name was registered, the Respondent was likely aware that the Domain Name had previously been registered by a third party and had expired. The Complainant did not expressly allege that the Respondent engaged in "drop-catching". The Complainant did, however, contend that it formerly owned the disputed domain name, that the registration inadvertently lapsed because of a failed auto-renewal caused by an expired payment method, and that a third party subsequently acquired the domain name after the lapse. The record does not establish the precise circumstances in which the Respondent acquired the Domain Name. However, if, as a matter of hypothesis, the Respondent acquired the Domain Name via a Registrar's expired domain transfer service, the Respondent could be characterized as having engaged in drop-catching. In that event, the Panel notes the observation in *Supernac's (Holdings) Limited v. Domain Administrator, DomainMarket.com*, WIPO Case No. [D2018-0540](#), "Where registration occurs through drop-catching, the registrant is objectively aware that another person held the registration immediately prior. This, in effect, puts the registrant on notice that another person (the immediately prior registrant) may have rights in a trademark to which the domain name is identical or confusingly similar. Where as in this case, the drop-catching registrant fails to take any steps to determine if such rights exist, then the registrant is taking the risk that such rights do exist".

The Panel finds the use of the Domain Name by the Respondent is in bad faith. Paragraph 4(b)(iv) of the Policy states that evidence of bad faith may include a respondent's use of a domain name to intentionally attempt to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark. The Domain Name, which is identical to the ELLIOT ACKERMAN Mark, resolves to a page offering links to third party websites for which the Respondent most likely receives some commercial gain, through an affiliate or referral program. In these circumstances where the Respondent has offered no plausible good faith explanation for the registration of the Domain Name, the Panel finds that the Respondent was most likely aware of the Complainant at the time of registration and is using the Domain Name to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the ELLIOT ACKERMAN Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

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 Domain Name <elliotackerman.com> be transferred to the Complainant.

/Nicholas Smith/

Nicholas Smith

Sole Panelist

Date: September 9, 2026