

## **ADMINISTRATIVE PANEL DECISION**

Smalley Steel Ring Company v. Emily Jessie  
Case No. D2025-0400

### **1. The Parties**

Complainant is Smalley Steel Ring Company, United States of America ("United States"), represented by Reed Smith LLP, United States.

Respondent is Emily Jessie, United States.

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

The disputed domain name <smalley.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 January 30, 2025. On February 3, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 3, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on February 4, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on February 4, 2025.

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 Respondent of the Complaint, and the proceedings commenced on February 6, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 26, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on February 27, 2025.

The Center appointed Phillip V. Marano as the sole panelist in this matter on March 4, 2025. 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**

Established in 1918, Complainant is medical diagnostic and technology manufacturer and retailer that sells retaining rings, section rings, and wave springs. Complainant offers its goods for sale globally through its official <smalley.com> domain name and website. Complainant owns valid and subsisting registrations for the SMALLEY trademark in numerous jurisdictions, including the trademark for SMALLEY (Reg No. 1,502,816) in the United States, registered on September 6, 1988, with the earliest priority dating back to 1918.

Respondent registered the disputed domain name on November 18, 2024. At the time this Complaint was filed, the disputed domain name did not resolve to any website content. However, Complainant has proffered direct email evidence that Respondent has used the disputed domain name to fraudulently solicit payment and sensitive information from one of Complainant's customers by impersonating an accounts receivable representative for Complainant under the pretense of a missing invoice.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Complainant asserts ownership of the SMALLEY trademark and has adduced evidence of trademark registrations in jurisdictions around the world including the United States, with earliest priority dating back to 1918. The disputed domain name is confusingly similar to Complainant's SMALLEY trademark, according to Complainant, because it is an intentional typographical variant, which adds an additional letter "l" to Complainant's SMALLEY trademark.

Complainant further asserts that Respondent lacks any rights or legitimate interests in the disputed domain, and has registered and used the disputed domain name in bad faith, primarily based on: Respondent's registration and use of the disputed domain name in furtherance of an illegal email phishing scheme to impersonate Complainant and defraud its customers; and the fame of Complainant's SMALLEY trademark.

##### **B. Respondent**

Respondent did not reply to Complainant's contentions.

#### **6. Discussion and Findings**

To succeed in its Complaint, Complainant must establish in accordance with paragraph 4(a) of the Policy:

- i. the disputed domain name is identical or confusingly similar to a trademark in which Complainant has rights;
- ii. 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.

Although Respondent did not reply to Complainant's contentions, the burden remains with Complainant to establish by a balance of probabilities, or a preponderance of the evidence, all three elements of paragraph 4(a) of the Policy. A respondent's default would not by itself mean that complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that complainant's claims are true. UDRP panels have been prepared to draw certain inferences in light of the particular facts and circumstances of the case, e.g. where a particular conclusion is *prima facie* obvious, where an explanation by respondent is called for but is not forthcoming, or where no other plausible conclusion is apparent. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 4.2 and 4.3; see also *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#) ("Respondent's default does not automatically result in a decision in favor of Complainant. Complainant must still prove each of the three elements required by Policy paragraph 4(a)").

### **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 Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Ownership of a nationally or regionally registered trademark serves as *prima facie* evidence that Complainant has trademark rights for the purposes of standing to file this Complaint. [WIPO Overview 3.0](#), section 1.2.1. Complainant submitted evidence that the SMALLEY trademark has been registered numerous jurisdictions including the United States with priority dating back to 1918. Thus, 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 only remaining question under the first element of the Policy is whether the disputed domain name is identical or confusingly similar to Complainant's SMALLEY trademark. The Panel finds the disputed domain name confusingly similar to Complainant's SMALLEY trademark because, disregarding the ".com" generic Top-Level Domain ("gTLD"), the entirety of the trademark is contained within the disputed domain name. [WIPO Overview 3.0](#), section 1.7. ("This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the domain name [...] [I]n cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar[...]"). In regards to gTLDs, such as ".com" in the disputed domain name, they are generally viewed as a standard registration requirement and are disregarded under the first element. [WIPO Overview 3.0](#), section 1.11.

Furthermore, it is well established that domain names which consist of common, obvious or intentional misspellings of trademarks are considered to be confusingly similar for the purposes of the first element of the Policy. [WIPO Overview 3.0](#), section 1.9 ("Examples of such typos include (i) adjacent keyboard letters, (ii) substitution of similar-appearing characters [...] (iii) the use of different letters that appear similar in different fonts, (iv) the use of non-Latin internationalized or accented characters, (v) the inversion of letters and numbers, or (vi) the addition or interspersing of other terms or numbers"). See e.g. *Edmunds.com, Inc. v. Digi Real Estate Foundation*, WIPO Case No. [D2006-1043](#) ("This is clearly a 'typosquatting' case where the disputed domain name is a slight misspelling of a registered trademark to divert internet traffic ... In fact, the domain name comprises Complainant's trademark [...] with a single misspelling of an element of the mark: a double consonant 's' at the end."). See e.g. *General Electric Company v. mr domains (Marcelo Ratafia)*, WIPO Case No. [D2000-0594](#). ("In the Panel's opinion 'www-' used in this context is a generic term which does nothing to reduce the potential for confusion, and therefore the panel is of the opinion that the Domain Names are for all intents and purposes identical to the registered trademark.") In this Complaint, Respondent has intentionally added an additional letter "l" to Complainant's SMALLEY trademark to leverage a domain name that is visually and aurally confusingly similar in furtherance of Respondent's illegal email phishing, impersonation, and fraud.

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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on 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 respondent. As such, where a complainant makes out a prima facie case that respondent lacks rights or legitimate interests, the burden of production on this element shifts to respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on complainant). If respondent fails to come forward with such relevant evidence, complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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, clearly established by direct email evidence as phishing, impersonation, and fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

## **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy proscribes the following non-exhaustive circumstances as evidence of bad faith registration and use of the disputed domain name:

- i. Circumstances indicating that Respondent has registered or Respondent has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to Complainant who is the owner of the trademark to a competitor of that Complainant, for valuable consideration in excess of Respondent’s documented out of pocket costs directly related to the disputed domain name; or
- ii. Respondent has registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- iii. Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- iv. By using the disputed domain name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

Wrongful use of others’ trademarks to extort information or payments from unsuspecting and unwary people, by using the disputed domain name for phishing activity, impersonation, and fraud, is considered abusive registration of the disputed domain name under the Policy. See *CareerBuilder, LLC v. Stephen Baker*, WIPO Case No. [D2005-0251](#); *The Boots Company, PLC v. The programmer adviser*, WIPO Case No. [D2009-1383](#). See e.g. *WSI Holdings Ltd. v. WSI House*, WIPO Case No. [D2004-1089](#) (“Respondent appears to be engaged in ‘phishing’ for mistaken potential employees of Complainant [...] Respondent (1)

has adopted a confusingly similar domain name, (2) it has used the trade dress of Complainant's website, and (3) it has sought to attract users to its site by creating confusion between its site and Complainant's. It has clearly engaged in activity which fulfils the bad faith requirements of Paragraph 4(b)(iv) of the Policy.") See e.g. *Go Daddy Operating Company, LLC v. Wu Yanmei*, WIPO Case No. [D2015-0177](#) (emails sent by Respondent from domain names using Complainant's trademark in an attempt to obtain complainant's customer information was held to be use of the disputed domain name for a phishing scheme and consequently bad faith under the Policy); *AB Electrolux v. Piotr Pardo*, WIPO Case No. [D2017-0368](#) (engaging in fraudulent email phishing activities through unauthorized use of a trademark for obtaining data or deriving information is construed as bad faith under the Policy). As discussed above, Complainant has submitted direct and compelling email evidence that Respondent registered and used the disputed domain name, a near identical typographical variant of Complainant's SMALLEY trademark and official <smalley.com> domain name, to send emails posing as an accounts receivable representative of Complainant in an attempt to defraud Complainant's customers with spurious unpaid invoices.

The Panel finds that 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 <smallley.com> be transferred to Complainant.

*/Phillip V. Marano/*

**Phillip V. Marano**

Sole Panelist

Date: March 19, 2025