

ADMINISTRATIVE PANEL DECISION

McKool Smith v. Name Redacted

Case No. D2025-2613

1. The Parties

The Complainant is McKool Smith, United States of America ("United States"), represented by Frankfurt Kurnit Klein & Selz, PC, United States.

The Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <mckoolsmith-it.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 July 2, 2025. On July 4, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 8, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 15, 2025, 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 July 25, 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").

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent's name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

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, 2025. In accordance with the Rules, paragraph 5, the due date for Response was August 26, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 28, 2025.

The Center appointed Steven Auvil as the sole panelist in this matter on September 9, 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

The Complainant was founded in 1991 and is a trial law firm with over 130 lawyers across the United States. The Complainant provides commercial litigation, intellectual property litigation, white collar defense, and bankruptcy legal services to clients within a diverse range of industries. The Complainant has offices throughout the United States, including in Texas, New York, California, and Washington, D.C.

The Complainant owns United States trademark registration number 4690744 for MCKOOL SMITH, registered February 24, 2015. The Complainant has owned the domain name <mckoolsmith.com> for its MCKOOL SMITH brand since December 3, 1997 to provide consumers with information about its legal services.

According to the Complaint, the disputed domain name was registered on April 14, 2025. According to the Complaint, the disputed domain name resolves to a website that displays "MCKOOL SMITH IT" in the website header and encourages users to contact the Respondent through a form where users may provide their own personal contact information. Further, according to the Complaint, the Respondent has used the disputed domain name to impersonate one of the Complainant's employees in the registration information of the disputed domain name.

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.

The Complainant first contends that the disputed domain name is confusingly similar to the Complainant's MCKOOL SMITH mark because the disputed domain name contains the Complainant's entire MCKOOL SMITH mark creating an identical commercial impression. The Complainant contends that the disputed domain name will confuse consumers into believing that the disputed domain name originates from or is affiliated with, authorized or endorsed by the Complainant.

The Complainant next contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complaint, the Respondent cannot claim or show any rights to the disputed domain name, nor is the Complainant commonly known by the disputed domain name. Further, the Complainant contends that the Respondent has not acquired any legitimate trademark or service mark rights in the MCKOOL SMITH mark.

Finally, the Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith. According to the Complaint, the Respondent has used the disputed domain name to impersonate the Complainant's employee in registering the disputed domain name. The Complainant further alleges that the Respondent has attempted to attract, for its own commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's MCKOOL SMITH mark. Moreover, the

Complainant alleges that there is a risk that the Respondent could use the disputed domain name in phishing or other nefarious attacks and deceive Internet users as to an affiliation with the Complainant's business.

The Complainant requests that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules: "[a] Panel shall decide a complaint 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." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following to obtain relief:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or a service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a Response, the Panel is entitled to accept as true the allegations set forth in the Complaint (unless the evidence is clearly contradictory), and to derive reasonable inferences from the evidence presented.

Based on the foregoing guidance, the Panel makes the following findings and conclusions based on the allegations and evidence contained in the Complaint, and reasonable inferences drawn from the evidence presented.

A. Identical or Confusingly Similar

It is well established 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. Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms, whether descriptive or otherwise, will not prevent a finding of confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.8. Additionally, as set forth in section 1.11.1 of the [WIPO Overview 3.0](#), the applicable generic Top-Level Domain ("gTLD") (e.g., ".com") is viewed as a standard registration requirement and as such is typically disregarded under the first element's confusing similarity test. As such, the use of ".com" gTLD in the disputed domain name has no bearing on the confusing similarity analysis.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy as the Complainant owns a trademark for MCKOOL SMITH. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name consists of the entirety of the Complainant's MCKOOL SMITH mark with the addition of a hyphen and the term "it". While the addition of the term "it" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel therefore 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. Such circumstances include:

- (i) before any notice of the dispute, the Respondent used, or prepared 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;
- (ii) the Respondent (as an individual, business, or other organization) is commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or tarnish the trademark or service mark at issue.

Although 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 difficult task of “proving a negative”, requiring the production of information that is often only within the knowledge or control of the respondent. Considering this difficulty, 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 Panel finds that none of the circumstances listed in paragraph 4(c) of the Policy apply. The Respondent did not respond to the Complaint and provide any evidence demonstrating rights or legitimate interests in the disputed domain name.

Under the circumstances, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name and therefore that the second element of paragraph 4(a) of the Policy is satisfied.

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 that, if found by the Panel to be present, is evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel concludes that the Respondent registered and used the disputed domain name in bad faith.

First, the disputed domain name incorporates the entirety of the Complainant’s registered and well-known MCKOOL SMITH mark with the exception of adding a hyphen and the term “it”, resulting in confusing similarity and a risk of implied affiliation. This alone reflects registration in bad faith.

Second, the un rebutted assertion by the Complainant is that the Respondent impersonated one of the Complainant’s employees to register the disputed domain name. Such an action clearly indicates that the Respondent was aware of the Complainant and its trademark when registering the disputed domain name.

Third, the disputed domain name resolves to an active website with a “Contact Us” form which allows consumers to provide their personal information. This increases the risk that the Respondent could use the disputed domain name to deceive unsuspecting Internet users as to the Respondent’s affiliation with the Complainant for illicit gain.

Fourth, the Respondent has provided no rebuttal evidence demonstrating good faith registration or use by it of the disputed domain name. See *Park 'N Fly Service LLC v. Usman Hafeez*, WIPO Case No. [D2025-1727](#).

Considering these circumstances, including the failure of the Respondent to respond to the Complaint, the Panel finds that the Respondent knew of the Complainant’s MCKOOL SMITH mark at the time of registering the disputed domain name and used the disputed domain name to unfairly capitalize on the Complainant’s MCKOOL SMITH mark.

The Panel therefore concludes that the disputed domain name was registered and is being used in bad faith and 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 <mckoolsmith-it.com> be transferred to the Complainant.

/Steven Auvil/

Steven Auvil

Sole Panelist

Date: September 23, 2025