

## **ADMINISTRATIVE PANEL DECISION**

APEXTECH LTD v. Hamza Mihfad

Case No. D2026-1373

### **1. The Parties**

The Complainant is APEXTECH LTD, Cyprus, internally represented.

The Respondent is Hamza Mihfad, Morocco.

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

The disputed domain name <smartieme.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 March 31, 2026. On April 1, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 1, 2026, 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 (Mr. Hamza Mihfad and VIRAL AI LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 2, 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 April 2, 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 April 7, 2026. In accordance with the Rules, paragraph 5, the due date for Response was April 27, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 28, 2026.

The Center appointed Kaya Köklü as the sole panelist in this matter on April 30, 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 a company with its registered seat in Cyprus, which offers products and services in the field of short-form audiobooks and related digital content.

The Complainant inter alia owns the European Union Trademark Registration No. 019101487, registered on March 21, 2025, for SMARTYME, covering protection for goods and services in classes 9, 41, and 42.

The Complainant further operates its main website at <smartymeapp.com>.

The Respondent is reportedly located in Morocco.

The disputed domain name was registered on June 15, 2025.

Based on the evidence provided by the Complainant, the disputed domain name resolves to a website purportedly offering an application for short-form audiobooks similar to the audiobooks offered by the Complainant. Initially, the application was named “SmartyMe”. Upon a cease-and-desist letter sent by the the Complainant on April 28, 2025, the Respondent removed the “SmartyMe” reference and renamed its application into “MindSpace: Book summaries”. In the following, the application was again renamed various times. At the time of the Decision, the disputed domain name resolved to a website purportedly offering an application for audiobooks under the name “Smartie Me”.

As further evidenced by the Complainant, there already have been misled customers believing that the (presumably non-functional) application offered by the Respondent is the genuine application of the Complainant.

#### **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.

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

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

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

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the following three elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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.

As per paragraph 4(a) of the Policy, the complainant bears the burden of proving that all these requirements are fulfilled, even if a respondent has not substantively replied to the complainant's contentions. *Starworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

Concerning the uncontested information provided by a complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in a complaint as accurate. Section 4.3 of the WIPO Overview of WIPO Panel Views on Select UDRP Questions ("[WIPO Overview 3.1](#)").

It is further noted that the Panel has taken note of the [WIPO Overview 3.1](#) and, where appropriate, will decide consistently with the consensus views captured therein.

#### **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 3.1](#), section 1.7.

The Complainant has shown rights in respect of the SMARTYME trademark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.2.1.

The Panel finds that the SMARTYME mark is recognizable within the disputed domain name. The disputed domain name consists of a close misspelling of the Complainant's SMARTYME trademark, with the letter "y" replaced by "ie". Moreover, the Panel notes that this misspelling is still pronounced identically to the Complainant's SMARTYME trademark in the English language.

Accordingly, the disputed domain name is confusingly similar to the SMARTYME mark for the purposes of the Policy. [WIPO Overview 3.1](#), sections 1.7 and 1.9.

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 disputed domain name. The Complainant has credibly submitted that the Respondent is not affiliated with the Complainant and has not been authorized or licensed to use the Complainant's SMARTYME trademark. 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 such as those enumerated in the Policy or otherwise.

Moreover, the Panel notes that the disputed domain name is used for a website purportedly offering 12-minute audiobooks similar to the Complainant's shortform audiobooks. Customer reactions further indicate that the Respondent's application may not function properly, which at least suggests that the disputed domain name is being used with fraudulent intent to mislead Internet users searching for the Complainant's genuine offering.

In view of the Panel, such use cannot constitute a bona fide offering of goods or services, nor a legitimate noncommercial or fair use.

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.

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 3.1](#), section 3.2.1.

In the present case, the Panel finds that the circumstances indicate that the Respondent was aware of the Complainant and its SMARTYME trademark when registering the disputed domain name. The disputed domain name is a close misspelling of the Complainant's SMARTYME trademark, and the Respondent uses it for offering a (non-functional) application for shortform audiobooks, which is confusingly similar to the Complainant's genuine application and services under its trademark SMARTYME.

The Panel further notes that the Respondent's use of the disputed domain name falls within paragraph 4(b)(iv) of the Policy. By using the disputed domain name for confusingly similar if not identical offers, the Respondent has in view of the Panel intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant and its SMARTYME mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and its alleged offering of a probably not even working application for shortform audiobooks. Customer reactions as provided by the Complainant further suggest that the disputed domain name is possibly being used with fraudulent intent to mislead Internet users who want to pay and subscribe to the Complainant's genuine application under the SMARTYME trademark.

The Respondent's failure to submit any Response in this proceeding, reinforces the Panel's conclusion that the Respondent has not provided any credible explanation for its choice and use of the disputed domain name.

Having reviewed the record, the Panel finds that the Respondent registered and has used the disputed domain name in bad faith.

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 disputed domain name <smartieme.com> be transferred to the Complainant.

*/Kaya Köklü /*

**Kaya Köklü**

Sole Panelist

Date: May 14, 2026