

ADMINISTRATIVE PANEL DECISION

McAfee, LLC v. Pavel Aladouski, McAfee
Case No. DAI2024-0006

1. The Parties

The Complainant is McAfee, LLC, United States of America, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Pavel Aladouski, McAfee, Estonia.

2. The Domain Name and Registrar

The disputed domain name <mcafee.ai> 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 17, 2024. On January 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 18, 2024, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 22, 2024, 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 January 26, 2024.

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 the Respondent of the Complaint, and the proceedings commenced on January 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 18, 2024. The Respondent did not submit any formal response. The Respondent sent an email communication to the Center on January 23, 2024. The Center notified the Commencement of Panel Appointment Process on February 23, 2024. The Complainant sent email communications to the Center on February 23 and 28, 2024.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on February 29, 2024. 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 Delaware limited liability company founded in 1987. The Complainant is a leading-edge cybersecurity company that provides advanced security solutions to consumers, small and medium-sized businesses, large enterprises, and governments. The Complainant creates enterprise and consumer solutions that make the world safer.

The Complainant has over 1,800 employees and operates in 182 countries around the world. The Complainant deals with billions of daily, real-time threat intelligence queries. The Complainant has been the recipient of numerous awards and accolades: Complainant's McAfee Total Protection won the AV-Comparatives Product of the Year as well as the Gold Award for Malware Protection in 2022. Additionally, the product was also chosen as the CHIP Test Winner in 2022 and ranked the AV-Test Top Product in 2021. Complainant has also been voted as PC Mag Editors' Choice winner 33 times.

The Complainant is the owner of the domain name <mcafee.com>, registered since August 5, 1992. According to SimilarWeb.com, Complainant's main website received a total of 24.1 million individual visits in the three-month period between September and November 2023.

The Complainant is the owner of the trademark MCAFEE across various jurisdictions:

Trademark	Jurisdiction	Reg number	Registration date	Class
MCAFEE	European Union	332627	June 1, 1999	9, 35, 42
MCAFEE	European Union	1207547	January 22, 2001	9, 16, 42
MCAFEE	Russian Federation	180819	October 15, 1999	9, 16, 42
MCAFEE	United Kingdom	UK00001554705	October 14, 1994	9
MCAFEE	United Kingdom	UK00901207547	January 22, 2001	9, 16, 42
MCAFEE	United States	1818780	February 1, 1994	9

The disputed domain name was registered on January 12, 2022 and it is not in use.

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 its trademarks;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name;
- the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

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

However, an email was sent from a personal account explaining that Respondent “will amend our complaint” and attaching a certificate of incorporation of a limited partnership (UÜ) in Estonia under the name “McAfee UU” entered into the commercial register of Estonia on March 2, 2023. No additional explanation was provided about this certificate.

It looks like Respondent’s answer was a computer generated response to the request of the Center for the Complainant to amend the complaint in light of the new registrant information.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements, which a complainant must satisfy in order to succeed. The Complainant must satisfy that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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.

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.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), 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 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 3.0](#), 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 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.

In addition, the Panel finds that the disputed domain name, being identical to the Complainant's trademark, carries a high risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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 Complainant and its MCAFEE trademark are well known internationally in the field of computer security.
- The Complainant has marketed and sold its goods and services using this trademark since the year 1987, while Respondent's registration of the disputed domain name took place in the year 2022.
- The disputed domain name is not in use.
- The emails configured at the disputed domain names are not in use since they all bounce back.

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.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available 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. Although 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, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, and the composition of the disputed domain name, and 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.

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 <mcafee.ai> be transferred to the Complainant.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: March 14, 2024