ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION

Outsmart Education, Inc. v. Hoang Vu
Case No. DCO2026-0008

1. The Parties

Complainant is Outsmart Education, Inc., United States of America ("United States"), internally represented.

Respondent is Hoang Vu, United States.

2. The Domain Name and Registrar

The disputed domain name <outsmartcollege.co> (the "Domain Name") is registered with Dynadot Inc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 21, 2026. On January 22, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 23, 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 Complainant on February 3, 2026, 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 13, 2026.

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 13, 2026. In accordance with the Rules, paragraph 5, the due date for Response was March 5, 2026. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on March 6, 2026.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on March 17, 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

Complainant, a corporation organized under the laws Delaware, United States on October 31, 2024, is a company aimed at making college education more affordable and accessible. Complainant has successfully raised millions of dollars in funds for its company as of November 2024, received significant press coverage for its business activities and is the owner of United States trademark application number 99397028 for the OUTSMART mark, which claimed prior and continuous commercial use since 2024. Complainant also owns and operates the domain name <outsmart.com>, which has been in use with Complainant's educational services since 2024.

The Domain Name was registered on January 11, 2026, and was used to set up email communications, used to send fraudulent emails to Complainant's investors through impersonation of Complainant's CEO, to request for credits, support and/or funds.

5. Parties' Contentions

A. Complainant

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

Notably, Complainant contends that (i) the Domain Name is confusingly similar to Complainant's trademark; (ii) Respondent has no rights or legitimate interests in the Domain Name; and (iii) Respondent registered and is using the Domain Name in bad faith.

In particular, Complainant contends that it has common law trademark rights for OUTSMART and that Respondent registered and is using the Domain Name, with the intention to confuse Internet users looking for bona fide OUTSMART services.

Complainant notes that it has no affiliation with Respondent, nor authorized Respondent to register or use a domain name which includes Complainant's trademark, and that Respondent has no rights or legitimate interests in the registration and use of the Domain Name. Rather, Complainant contends that Respondent has acted in bad faith in acquiring and setting up the Domain Name, when Respondent clearly knew of Complainant's rights.

Specifically, Complainant argues that Respondent used the Domain Name to set up email services to send fraudulent phishing communications to Complainant's potential investors, impersonating Complainant's CEO, to request for credits, support or funds.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

(i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
(ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
(iii) the Domain Name was registered and is being used in bad faith.

Section 4.3 of the WIPO Overview of WIPO Panel Views on Select UDRP Questions ("WIPO Overview 3.1") states that failure to respond to complainant's contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true.

Thus, although in this case Respondent has failed to respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence.

A. Identical or Confusingly Similar

Under paragraph 4(a)(i) of the Policy, a complainant must demonstrate rights in the mark to which it asserts the disputed domain name is identical or confusingly similar. Here Complainant does not rely on a registered mark; rather, it asserts unregistered or common law trademark rights in the OUTSMART trademark.

It is well settled that the term "trademark or service mark" as used in paragraph 4(a)(i) encompasses both registered and unregistered marks. See, e.g., *The British Broadcasting Corporation v. Jaime Renteria*, WIPO Case No. D2000-0050; *United Artists Theatre Circuit, Inc. v. Domains for Sale Inc.*, WIPO Case No. D2002-0005; see also WIPO Overview 3.1.

To establish unregistered or common law rights as a trademark, Complainant must show it acquired secondary meaning, i.e., that the public associates the asserted mark with Complainant's goods and services. See *CPP, Inc. v. Nokta Internet Technologies*, WIPO Case No. D2008-0591 (holding that when relying on unregistered or common law rights in UDRP proceedings, "the Complainant must adduce sufficient evidence to demonstrate that the claimed mark has in fact been used as a mark labeling goods or services and, through its use, attracted significant goodwill and reputation associated with the Complainant's goods or services in a definable market"); WIPO Overview 3.1, section 1.3 ("Relevant evidence demonstrating such acquired […] 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").

In support of its claim to unregistered rights in the name OUTSMART, the record shows that Complainant's use of the OUTSMART mark predates the registration of the Domain Name. Such use includes use of the OUTSMART mark in connection with business activities such as marketing and promotion on the Internet regarding Complainant's educational access services, successful fund raising, evidence of the filing of a United States trademark application with a first and continuous use date in 2024, all of which predate the registration of the Domain Name. Moreover, the fact that a respondent is shown to have been targeting the complainant's mark also lends support to the assertion that a complainant has achieved significance as a source identifier. See WIPO Overview 3.1, section 1.3

By virtue of the evidence Complainant has made of record and as noted above, the Panel finds Complainant has demonstrated acquired distinctiveness sufficient to establish unregistered or common law trademark rights in the OUTSMART mark for the purposes of the Policy.

With Complainant's rights in the OUTSMART mark established, the remaining question under the first element of the Policy is whether the Domain Name, typically disregarding the Top-Level Domain ("TLD") in which it was registered (in this case, ".co"), is identical or confusingly similar to Complainant's trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. D2010-0842.

As prior panels have recognized, incorporating a trademark in its entirety in a domain name is generally sufficient to establish that a domain name is identical or confusingly similar to a complainant's mark for purposes of the Policy. In the current situation, the Domain Name incorporates Complainant's OUTSMART trademark in its entirety. The OUTSMART mark is recognizable within the Domain Name. Accordingly, the Domain Name is confusingly similar to Complainant's OUTSMART trademark for the purposes of the Policy. See WIPO Overview 3.1, section 1.7.

The Domain Name's inclusion of Complainant's OUTSMART mark with the addition of the term "college" in the Domain Name <outsmartcollege.com> does not prevent a finding of confusing similarity between the Domain Name and the Complainant's OUTSMART mark. See section 1.8 of the WIPO Overview 3.1.

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make a prima facie showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. D2008-1393. Once a complainant makes such a prima facie showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and its OUTSMART trademark and does not have any rights or legitimate interests in the Domain Name. Complainant has confirmed that Respondent is not affiliated with Complainant, or otherwise authorized or licensed to use the OUTSMART trademark or to seek registration of any domain name incorporating this trademark. Respondent is also not known to be associated with the OUTSMART trademark and there is no evidence showing that Respondent has been commonly known by the Domain Name.

In addition, Respondent has not used the Domain Name in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use. Rather, the record shows that Respondent had used the Domain Name to engage in illegal activity, namely, the sending of phishing communications to Complainant's potential investors, impersonating Complainant's CEO, and requesting credits, support and/or funds.

UDRP panels have consistently held that use of a domain name for illegal activity — such as email phishing, impersonation, or passing off — can never confer rights or legitimate interests on a respondent. WIPO Overview 3.1, section 2.13.1.

Accordingly, Complainant has provided evidence supporting its prima facie showing that Respondent lacks any rights or legitimate interests in the Domain Name. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Name. Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Name and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent's actions indicate that Respondent registered and is using the Domain Name in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a respondent, namely:

"(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location."

The Panel finds that Complainant has provided ample evidence to show that its use of the OUTSMART trademark long predates the registration of the Domain Name. Complainant is also well established and known; indeed, the record shows that Complainant's OUTSMART trademark and related services are known and recognized for purposes of the Policy. Therefore, and also noting the use analysis below, Respondent was clearly aware of the OUTSMART trademark when it registered the Domain Name.

The Panel therefore finds that Respondent's awareness of Complainant's trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. D2011-2209; *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. D2001-1070; and *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. D2006-0007.

As noted above, the record shows that Respondent had used the Domain Name to engage in illegal activity, namely, the sending of phishing communications to Complainant's potential investors, impersonating Complainant's CEO, using that individual's real name and displaying Complainant's OUTSMART mark within the body of the message and requesting credit, support and/or funds from potential investors.

Finally, the Panel also notes the failure of Respondent to submit a response. The Panel thus considers such factors as strong further evidence of Respondent's registration and use constitutes bad faith.
In the present circumstances, considering the reputation of the OUTSMART trademark, and the fraudulent use of the Domain Name, the Panel finds that Respondent registered and is using the Domain Name in bad faith.

Therefore, the Panel finds that Complainant succeeds under the third element of paragraph 4(a) 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 <outsmartcollege.co> be transferred to Complainant.

/Kimberley Chen Nobles/
Kimberley Chen Nobles
Sole Panelist
Date: March 30, 2026