

## **ADMINISTRATIVE PANEL DECISION**

Panasonic Corporation v. Allan Sifontes

Case No. D2023-5018

### **1. The Parties**

The Complainant is Panasonic Corporation, Japan, represented by Gateley Legal, United Kingdom.

The Respondent is Allan Sifontes, United States of America (“United States”).

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

The disputed domain name <lumixofm.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 December 1, 2023. On December 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 4, 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 December 11, 2023 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 December 11, 2023.

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 December 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 9, 2024.

The Center appointed Assen Alexiev as the sole panelist in this matter on January 23, 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 multinational electronics manufacturer and retailer, established in 1918. It employs over 200,000 people and had net sales of over GBP 45 billion for the financial year ended March 2023.

In 2001, the Complainant launched its LUMIX line of cameras. Since then, the LUMIX cameras have won numerous awards around the world, and in the United Kingdom alone, the Complainant has sold over 5,000,000 LUMIX cameras.

The Complainant is the owner of a number of trademark registrations for “LUMIX” (the “LUMIX trademark”), including the following:

- the United Kingdom Trade mark LUMIX with registration No. UK00002282082, registered on March 15, 2002 for goods in International Class 9; and
- the United States trademark LUMIX PRO with registration No. 6,093,543, registered on July 7, 2020 for services in International Classes 35, 37 and 41. The “PRO” element in this trademark is disclaimed.

The disputed domain name was registered on March 22, 2023. It resolves to a website advertising the services of a consulting, marketing, and management agency trading under the name “Lumix Management”.

#### **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 states that the disputed domain name is confusingly similar to its LUMIX trademark, because it incorporates the trademark followed by the letters “ofm”. According to the Complainant, these letters stand for “OnlyFans Management”, which refers to the services offered on the website at the disputed domain name.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it has not been authorized by the Complainant to use the LUMIX trademark, is not commonly known by the disputed domain name and is not making a legitimate noncommercial or fair use of it. The Complainant points out that the Respondent offers marketing advice and support to customers using or wishing to use the OnlyFans video and image sharing platform.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. It maintains that the LUMIX trademark is an invented word protected by the Complainant's international portfolio of trademark registrations, and is an internationally recognized brand of digital cameras which would have been revealed by a simple Internet search. According to the Complainant, the Respondent must therefore have been aware of the Complainant's LUMIX trademark when selecting its business name and domain name.

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

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

## 6. Discussion and Findings

### 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 the LUMIX trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the LUMIX trademark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the LUMIX trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, "ofm") 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 LUMIX trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

The disputed domain name is confusingly similar to the LUMIX trademark, which has been used globally for over twenty years by the Complainant in connection with its digital cameras. The associated website offers analysis, management, and marketing services to content creators who use the OnlyFans platform to sell their video content to subscribers. The services offered by the Respondent fall within the scope of protection of the LUMIX PRO trademark registered in the United States, and are related to video content created with the use of digital cameras, for which the LUMIX trademark is also registered. The Respondent has not submitted a Response and has not provided any plausible explanation as to why its activities through the disputed domain name should be regarded as legitimate and giving rise to rights or legitimate interests. All this taken together leads the Panel to the conclusion that it is more likely than not that the Respondent has chosen and used the disputed domain name and the trade name "Lumix Management" to evoke a

connection with the LUMIX trademark in the minds of consumers and thus to attract them for commercial gain. Such scenario does not support a finding that the Respondent has rights or legitimate interests in the disputed domain name.

Therefore, 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 Respondent has registered a domain name that is confusingly similar to the Complainant's LUMIX trademark and has used it to offer consulting, management and marketing services under the trade name "Lumix Management", which is also confusingly similar to the Complainant's trademark. These services fall within the scope of protection of the Complainant's trademark registered in the United States, where the Respondent is located, and are related to the commercialization of video content created with digital cameras for which the Complainant's trademark is also registered. The disputed domain name was registered and the Respondent began offering its services in 2023, which is more than twenty years after the Complainant registered its LUMIX trademark and began using it in connection with its digital cameras, and the Respondent has not denied its knowledge of the Complainant and of its LUMIX products. All this supports a finding that, on the balance of probabilities, the Respondent has registered and used the disputed domain name targeting the Complainant and its LUMIX trademark and has intentionally attempted to attract, for commercial gain, Internet users to the disputed domain name and to the associated website by creating a likelihood of confusion with the Complainant's trademark as to the source or affiliation of the Respondent's website and of the services offered thereon. This supports a finding of bad faith registration and use of the disputed domain name under paragraph 4(b)(iv) of 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 <lumixofm.com> be transferred to the Complainant.

*/Assen Alexiev/*

**Assen Alexiev**

Sole Panelist

Date: February 5, 2024