

## **ADMINISTRATIVE PANEL DECISION**

Sony Group Corporation v. Berry Lamy, Happy Homes Florida Real Estate LLC

Case No. D2024-1745

### **1. The Parties**

The Complainant is Sony Group Corporation, Japan, represented by MarkMonitor, United States of America (“United States” or “US”).

The Respondent is Berry Lamy, Happy Homes Florida Real Estate LLC, United States.

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

The disputed domain name <sonyone.com> (the “Domain Name”) 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 April 25, 2024. On April 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same date, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 1, 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 May 6, 2024.

The Center verified that the Complaint 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 May 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 28, 2024. The Respondent sent email communications to the Center on May 17 and May 20, 2024. On May 31, 2024, the Center informed the Parties that it would proceed to panel appointment. On June 1, 2024, the Respondent sent a further email communication to the Center.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on June 11, 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 to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainant is a Japanese multinational corporation established in 1946. It manufactures audio, video, communications, and information technology products, and employs more than 113,000 people.

The Complainant conducts its businesses through the name and trademark SONY. It is registered in over 193 countries, such as International Registration No. 358019 (registered on May 7, 1969).

The Complainant maintains Internet presence and holds a large portfolio of domain names, including <sony.com> registered on July 7, 1989.

The Domain Name was registered on November 19, 2015. The Domain Name has resolved to a blank webpage. MX records are configured for the Domain Name, allowing for creation of email addresses.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that the Complainant is distinctive and well known. The Complainant provides evidence of trademark registrations, most of which pre-date the Respondent's registration of the Domain Name. The Complainant argues that the Domain Name incorporates the Complainant's trademark in its entirety, with the additional term "one". The additional term represents the lowest number and is commonly used in connection with the Complainant's products to represent the first generation of such products. The Complainant believes the addition does not prevent confusing similarity.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Complainant asserts that the Respondent has not been granted any authorization to use the Complainant's trademark or to seek registration of any domain name incorporating said mark. The Respondent has not used of the Domain Name in connection with a bona fide offering of goods or services. The Complainant points out that the Respondent may have created e-mail addresses from the Domain Name. The email accounts may have been used or may be used to impersonate the Complainant in phishing activities. Such fraudulent and abusive use is damaging for the Complainant and clearly not legitimate noncommercial or fair use. Finally, the Complainant argues that the Respondent has not been commonly known by the name "SONY" nor "SONYONE".

The Complainant argues it is implausible that the Respondent was unaware of the Complainant when the Respondent registered the Domain Name. The Domain Name is obviously based on the Complainant's well-known trademark and the Respondent has no connection to the trademark. This suggests opportunistic bad faith. The passive holding of the Domain Name does not prevent a finding of bad faith use under the Policy. Moreover, the use of privacy service and the configuration of e-mail server point to bad faith.

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

The Respondent did not file a formal response, but sent emails to the Center on May 17 and 20, 2024, as well as on June 1, 2024, informing inter alia;

"I have had this domain since 2015. I am open to transferring it to the interested party. Please make an offer so we can move forward."

“I responded several times. I have no intention of renewing the domain. I will contact Godaddy to cancel it. Again, this is a family name. I spent money to keep it active in hopes of using it as organization to help the community. I will ignore any future interaction since you are not interested in buying the domain name.”

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

The first element functions primarily as a standing requirement. The standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7.

The Complainant has established that it has rights in the trademark SONY. The Domain Name incorporates the Complainant’s trademark with the addition of the term “one”. This addition does not prevent a finding of confusing similarity between the Domain Name and the trademark. [WIPO Overview 3.0](#), section 1.8. When assessing identity or confusing similarity under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain (“gTLD”). [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which a respondent may demonstrate rights or legitimate interests in a disputed domain name. While 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 often impossible 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. 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.

Based on the evidence, the Respondent is not affiliated or related to the Complainant in any way. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. Despite the Respondent’s claims in the informal emails to the Center, there is no evidence of the Respondent’s use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services. Finally, the Panel finds that the composition of the Domain Name carries a risk of implied affiliation with the Complainant.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

### **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.

The Respondent most likely knew of the Complainant when he registered the Domain Name. It follows from the composition of the Domain Name and the fame of the Complainant. The passive holding of the Domain Name does not prevent a finding of bad faith. [WIPO Overview 3.0](#), section 3.3. Moreover, the Respondent

has not provided any evidence of actual or contemplated good faith use of the Domain Name. Under the circumstances of this case, the configuration of the email (MX) server indicates bad faith.

Based on the available record, 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 the Domain Name <sonyone.com> transferred to the Complainant.

*/Mathias Lilleengen/*

**Mathias Lilleengen**

Sole Panelist

Date: June 25, 2024