

## **ADMINISTRATIVE PANEL DECISION**

Nextone, Inc. d/b/a Palmetto Publishing v. Chris Morris, CT Tech  
Case No. D2024-5189

### **1. The Parties**

The Complainant is Nextone, Inc. d/b/a Palmetto Publishing, United States of America, represented by Nelson Mullins Riley & Scarborough LLP, United States of America.

The Respondent is Chris Morris, CT Tech, United States of America.

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

The disputed domain name <palmettopublishingco.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 17, 2024. On December 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 18, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 December 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 16, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 27, 2025.

The Center appointed Joseph Simone as the sole panelist in this matter on January 29, 2025. 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, Nextone, Inc. d/b/a Palmetto Publishing, is a full-service publishing company founded in 2015 and located in Charleston, South Carolina, United States of America.

The Complainant provides independent authors with book publishing services, including, but not limited to, cover design, editing, printing, distribution, and marketing services.

The Complainant has an extensive portfolio of trade marks incorporating the name PALMETTO PUBLISHING, including the following:

- United States of America Trade Mark Registration No. 6,066,548 in Classes 9, 16, and 41, registered on June 2, 2020;
- United States of America Trade Mark Registration No. 6,374,017 in Class 35, registered on June 1, 2021; and
- United States of America Trade Mark Registration No. 6,284,931 in Classes 9, 16, and 41, registered on March 2, 2021.

The disputed domain name was registered on October 8, 2024.

The evidence provided by the Complainant states that, at the time of filing the Complaint, the disputed domain name resolved to a “Coming Soon” landing page. At the time of issuance of this Decision, the disputed domain name continued to resolve to the same landing page. The Complainant further submitted evidence showing that an email address connected to the disputed domain name is being displayed on a Facebook page impersonating 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.

Notably, the Complainant contends that the disputed domain name registered by the Respondent is identical or confusingly similar to the Complainant’s PALMETTO PUBLISHING trade marks, and that the addition of the generic Top-Level Domain (“gTLD”) “.com” does not affect the analysis as to whether the disputed domain name is identical or confusingly similar to the Complainant’s trade marks.

The Complainant asserts that it has not authorized the Respondent to use the PALMETTO PUBLISHING mark, and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services.

The Complainant also claims there is no evidence indicating that the Respondent has any connection to the PALMETTO PUBLISHING mark in any way, and that there is no plausible good-faith reason for the Respondent to have registered the disputed domain name. The Complainant therefore concludes that the registration and any use of the disputed domain name whatsoever must be in bad faith.

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

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

## **6. Discussion and Findings**

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

To prevail in a UDRP dispute, the first element that a complainant must prove is that the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the complainant has rights. It is widely accepted that this 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 trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Panel acknowledges that the Complainant has established rights in the PALMETTO PUBLISHING trade marks.

Disregarding the gTLD ".com", the disputed domain name incorporates the Complainant's trade mark PALMETTO PUBLISHING in its entirety. Thus, the disputed domain name should be regarded as confusingly similar to the Complainant's PALMETTO PUBLISHING trade mark. The inclusion of the additional term "co" does not prevent a finding of confusing similarity. [WIPO Overview 3.0](#), sections 1.7 and 1.8.

The Panel therefore finds that the Complainant satisfies the requirements of paragraph 4(a)(i) of the Policy in establishing its rights in the PALMETTO PUBLISHING trade mark and in showing that the disputed domain name is confusingly similar to its mark.

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

The second element that a complainant must prove is that the respondent has no rights or legitimate interests in the disputed domain name. 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 evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

The Complainant asserts that it has not authorized the Respondent to use its trade mark and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Having reviewed the available record, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent did not file a response and has therefore failed to assert factors or put forth evidence to establish that it enjoys rights or legitimate interests in the disputed domain name. Meanwhile, no evidence has been provided to demonstrate that the Respondent, prior to the notice of the dispute, had used or demonstrated its preparation to use the disputed domain name in connection with a bona fide offering of goods or services.

There is also no evidence presented indicating that the Respondent has been commonly known by the disputed domain name or that the Respondent is making legitimate noncommercial or fair use of the disputed domain name. As such, the Panel concludes that the Respondent has failed to rebut the Complainant's prima facie showing of the Respondent's lack of rights or legitimate interests in the disputed domain name, and that none of the circumstances of paragraph 4(c) of the Policy is applicable in this case.

Accordingly, and based on the Panel's findings below, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

The third and final element that a complainant must prove is that the respondent has registered and is using the disputed domain name in bad faith.

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trade mark or service mark) or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its 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 the respondent's website or location or of a product or service on its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances in which bad faith may be found. Other circumstances may also 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).

For reasons discussed under this and the preceding heading, the Panel believes that the Respondent's conduct in this case constitutes bad faith registration and use of the disputed domain name.

When the Respondent registered the disputed domain name, the PALMETTO PUBLISHING trade marks were already widely known and directly associated with the Complainant's activities. UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trade mark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Given the extensive prior use and fame of the Complainant's marks, in the Panel's view, the Respondent should have been aware of the Complainant's marks when registering the disputed domain name.

The Complainant's registered trade mark rights in PALMETTO PUBLISHING predate the registration date of the disputed domain name. A simple online search for the term "palmetto publishing" would have revealed that it is an established brand. [WIPO Overview 3.0](#), section 3.2.2.

The Respondent has not presented any evidence or explanation to justify its choice of the term "palmetto publishing" in the disputed domain name.

The Panel is therefore of the view that the Respondent registered the disputed domain name with knowledge of the Complainant's trade mark rights.

The Complainant submitted evidence of a Facebook page referencing Complainant's address, using the Complainant's logo with the PALMETTO PUBLISHING Mark, and stating "[...]@palmettopublishingco.com" as the contact email address. In the absence of evidence to the contrary, the Panel concludes that, on the balance of probabilities, that the Facebook page is connected to the Respondent and the disputed domain name is being used an email address with the likely intention of impersonating the Complainant. Panels have held that such use of a domain name constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

The Panel also finds that the current passive holding of the disputed domain name in this case does not prevent a finding of bad faith under the Policy considering the reputation of the Complainant's trade mark and the composition of the disputed domain name clearly targeting the Complainant. [WIPO Overview 3.0](#), section 3.3.

Accordingly, the Panel finds that the disputed domain name was registered and are being used in bad faith.

## 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 <palmettopublishingco.com> be transferred to the Complainant.

*/Joseph Simone/*

**Joseph Simone**

Sole Panelist

Date: February 12, 2025