

## **ADMINISTRATIVE PANEL DECISION**

The Lumineers, LLC v. Andrey Weprikov  
Case No. D2025-1750

### **1. The Parties**

The Complainant is The Lumineers, LLC, United States of America ("United States"), represented by Creative Law Network, LLC, United States.

The Respondent is Andrey Weprikov, Ukraine.

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

The disputed domain name <thelumineers2025.com> is registered with Dynadot Inc (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 30, 2025. On May 1, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 3, 2025, 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 (Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 5, 2025, 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 9, 2025.

The Center verified that the Complaint and 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 May 13, 2025. In accordance with the Rules, paragraph 5, the due date for Response was June 2, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 4, 2025.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on June 10, 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 following facts are undisputed.

The Complainant is a musical group and has had three number one albums on Billboard, has been nominated for two Grammy awards and has sold millions of albums in digital and hard-copy formats.

The Complainant conducts its musical performance under the trademark THE LUMINEERS, which has been registered in many jurisdictions for various goods and services, including the United States word marks THE LUMINEERS with no. 4406896, registered on September 24, 2013 for goods in class 9.

The Complainant has used the trademark THE LUMINEERS in an actual, open, notorious, and exclusive manner in the United States interstate commerce since at least July 9, 2009.

The disputed domain name was registered on February 19, 2025. The disputed domain name resolved to a website that provided information about the Complainant, listed the Complainant's planned live performances, (purportedly) offered for sale tickets to the Complainant's live performances. At the time of rendering this decision the disputed domain name does not resolve to an active site.

#### **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 the following.

The Complainant's trademark registrations of THE LUMINEERS predate the disputed domain name.

The disputed domain name contains the Complainant's trademark THE LUMINEERS in its entirety, followed by the descriptive term "2025", which refers to the Complainant's 2025 global tour. This adds to the likelihood of confusion and evidences that the Respondent is intentionally seeking to divert traffic and sales intended for the Complainant.

The Respondent's use of the disputed domain name and the website is not authorized by the Complainant and intentionally deceives the consuming public by implying an association with the Complainant.

There is no relationship between the Complainant and the Respondent. Now that the Respondent is also not commonly known by the name "The Lumineers" and has not registered any similar exclusive rights to the disputed domain name, there is no indication of legitimate interests in the registration of the disputed domain name. The Respondent is not an affiliated business or licensee of the Complainant, nor has the Complainant otherwise authorized the Respondent to register the disputed domain name or otherwise use the trademark. The disputed domain name was registered and is being used in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Further Procedural Considerations**

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition.

Since the Respondent's mailing address is stated to be in Ukraine, which is subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue.

Having considered all the circumstances of the case, the Panel is of the view that it should continue. The Panel has reached this conclusion in part because the Panel recognizes that the Center employed all reasonably available means calculated to achieve actual notice to the Respondent. In particular, the Center successfully sent the Notification of the Complaint to the email address disclosed for the Respondent by the Registrar. There is no indication that the email notification has not been successfully delivered.

Furthermore, the Panel notes that the disputed domain name was created in February 2025, during the international conflict, suggesting that the Respondent is able to access the Internet, maintain control of the disputed domain name, and should have received at least electronic notice of this proceeding.

Finally, for the reasons which are set out later in this Decision, the Panel has no serious doubt that the Respondent registered and has used the disputed domain names in bad faith. The Panel therefore concludes that the Respondent has been given a fair opportunity to present his case, and so that the administrative proceeding takes place with due expedition the Panel will proceed to a Decision accordingly.

### **6.2 Substantive Issues**

#### **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 trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here the term "2025", 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 mark 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 Respondent has not replied to the Complainant’s contentions and thus the Panel cannot establish whether the Respondent was actually offering tickets for concerts for the Complainant.

Even if the Respondent was offering the goods or services marketed by the Complainant, the Respondent would not make fair use of the Complainant’s trademark in the disputed domain name. UDRP panels have recognized limited rights for resellers or distributors to nominally use a trademark for its source-identifying function, and such fair use is qualified under the so-called “Oki Data” test enshrined in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#), and the section 2.8.1 of the [WIPO Overview 3.0](#). The available record before the Panel does not show that the Respondent would meet the requirements of the Oki Data test, as the Respondent has failed to accurately and prominently disclose its relationship with the Complainant.

Furthermore, the Panel considers that the composition of the disputed domain name carries a 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 refers to its considerations under 6.2.B.

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 Respondent has intentionally attempted to attract, for commercial gain, Internet users to the website by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation, and endorsement of the website to which the disputed domain name resolves.

Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes 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 <thelumineers2025.com> be transferred to the Complainant.

*/Willem J. H. Leppink/*

**Willem J. H. Leppink**

Sole Panelist

Date: June 24, 2024