

## ADMINISTRATIVE PANEL DECISION

Bad Kitty's Dad, LDA v. Oswald Chu / Namespro.ca  
Case No. DCO2023-0097

### 1. The Parties

The Complainant is Bad Kitty's Dad, LDA, Portugal, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Oswald Chu / Namespro.ca, Canada.

### 2. The Domain Name and Registrar

The disputed domain name <ometv.co> is registered with Network Solutions, LLC (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 10, 2023. On November 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 15, 2023, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 15, 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 November 16, 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 November 16, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 7, 2023.

The Center appointed John Swinson as the sole panelist in this matter on December 27, 2023. 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 company registered in Portugal. It operates a free online video chat platform named “OmeTV” which it launched in 2015.

The Complainant is the owner of trademark registrations for the marks OMETV and OME TV including the following:

- Portugal trademark registration number 001496017 for a word mark OMETV, registered on July 17, 2019, with a filing date of February 6, 2019; and
- United States of America (“United States”) trademark registration numbers 5833264 and 5833267 for word marks OME TV, registered on August 13, 2019, with filing dates of January 16, 2019.

The Complainant operates a website at “www.ome.tv”. The domain name <ome.tv> was registered on September 9, 2015. (The Complainant also uses the domain name <ometv.chat>.) The Complainant’s website includes a design in the form of an old-fashioned television set with an antenna and the words “Ome TV” shown on the screen in orange and green (the “Complainant’s Logo”).

At the present time, the Complainant’s website states “Discover the thrill of random video chat with OmeTV — the best Omegle alternative! Meet new people in the webcam chat or in the free mobile app”.

The Panel notes that the Omegle chat service was a competitor to the Complainant. According to the Omegle website at <omegle.com>, the Omegle chat service commenced in 2009 but recently closed (in 2023). Further details about Omegle can be found in *Omegle.com LLC v. Chukhmanenko Aleksei Aleksandrovich*, WIPO Case No. [DTV2015-0005](#).

The Respondent did not file a Response, so little information is known about the Respondent. According to the Registrar’s records, the Respondent has an address in Canada. The name details of the Respondent include a reference to “namespro.ca” which is a Canadian registrar.

The disputed domain name was initially registered on April 28, 2016.

The website at the disputed domain name gives the impression that it is operated by the Complainant. It includes the Complainant’s Logo, a heading “OmeTV Random Webcam Video Chat” and statements such as “OMETV is a free Chatroulette and Omegle alternative that connects people using their webcam” and “Our random chat provides you a seamless Omegle like chat experience and the quickest way to get to know people online”.

However, when one clicks the “Start Now!” button on the website at the disputed domain name, after traversing a number of screens, the user is presented with the sign-up process for Coomeet which is a competitor of 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 hosts a website featuring Complainant's OMETV trademark while claiming to be associated with the Complainant and offering the Complainant's services, but in fact is promoting services in competition to the Complainant's services.

### B. Respondent

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

## 6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

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

The onus of proving these elements is on the Complainant.

### 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.

Based on the available record, the Panel finds 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 Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, 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 website at the disputed domain name at the present time prominently uses the Complainant's Logo and gives the impression that it is a website operated by the Complainant but diverts users to a signup process for a competitor of the Complainant. This is not good faith use of the disputed domain name.

Based on the available record, 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.

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by the complainant. *Fifth Street Capital LLC v. Fluder (aka Pierre Olivier Fluder)*, WIPO Case No. [D2014-1747](#).

In the present case, the content on the website at the disputed domain name clearly demonstrates that the Respondent is aware of the Complainant and its services.

The website gives the impression that it is operated by the Complainant and uses the Complainant's Logo.

The Complainant launched its business in 2015. The disputed domain name was registered in March 2016. The Panel is prepared to infer from the circumstances that the Respondent was aware of the Complainant in March 2016 and registered the disputed domain name to take advantage of the Complainant's reputation.

The website at the dispute domain name aims to attract Internet users looking for the Complainant but then diverts users to a signup process for a competing service.

Accordingly, the Respondent is using the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website, contrary to paragraph 4(b)(iv) of the Policy.

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 that the disputed domain name <ometv.co> be transferred to the Complainant.

*/John Swinson/*

**John Swinson**

Sole Panelist

Date: January 2, 2024