

**IN THE MATTER OF THE ARBITRATION OF A COMPLAINT PURSUANT TO THE
CANADIAN INTERNET REGISTRATION AUTHORITY (CIRA) DOMAIN NAME
DISPUTE RESOLUTION POLICY (CDRP)**

Domain in Dispute: <lumileds.ca>

Complainant: Lumileds Holding B.V. (Netherlands)

Registrant: Lumileds Inc.

Registrar: 10 Dollar Domain Names Inc.

Panel: Douglas M. Isenberg (chair); Elizabeth Cuddihy; and Michael Erdle

Provider: British Columbia International Commercial Arbitration Centre

BCICAC File: DCA-2018-CIRA

DECISION

1. The Parties

The Complainant is Lumileds Holding B.V. (Netherlands) of Schiphol, Netherlands (“Complainant”), represented by Winston & Strawn LLP of San Francisco, California (USA) and Jones & Co. of Toronto, Ontario, Canada.

According to the Complaint, the Registrant is Lumileds Inc. of Montreal, Canada (“Registrant”).

2. The Domain Name and Registrar

The disputed domain name is <lumileds.ca> (the “Disputed Domain Name”), which was created on February 15, 2012. The registrar is 10 Dollar Domain Names Inc. (“Registrar”).

3. Governing Policy and Rules

This is a proceeding filed with the British Columbia International Commercial Arbitration Centre (“BCICAC”) under the CIRA Domain Name Dispute Resolution Policy, Version 1.3 (August 22, 2011) (“CDRP” or “Policy”) and the CIRA Domain Name Dispute Resolution Rules, Version 1.5 (July 28, 2014) (“Rules”). Paragraph 1.8 of the Policy states: “The version of the Policy in effect at the time a Proceeding is initiated will apply to the Proceeding.” Paragraph 1.2 of the Rules states: “The version of the Resolution Rules in effect at the time a Proceeding is initiated will apply to that Proceeding.”

4. Procedural History

The history of this proceeding, according to the information provided by BCICAC, is as follows:

- a. Complainant filed its Complaint (and schedules) with respect to the Disputed Domain Name in accordance with the CDRP on September 14, 2018.
- b. The Complaint was reviewed and found to be compliant. By letter and email dated September 18, 2018, BCICAC so advised the parties and forwarded a copy of the Complaint (and schedules) to the Registrant.

- c. The Complaint (and schedules) were delivered to the Registrant via electronic transaction email on September 18, 2018.
- d. The Registrant submitted its Response (and schedules) in compliance with the Policy and Rules to the Centre on October 9, 2018. The Response contains a claim for costs under paragraph 4.6 of the Policy.
- e. The Registrant's Response (and schedules) were delivered to the Complainant on October 9, 2018.
- f. In accordance with Paragraph 11.1 of the Rules, the Complainant had until October 16, 2018 to respond to the claim for costs. The Complainant submitted its Response to Registrant's claim for costs on October 16, 2018.
- g. The Complaint and the Response were filed in English, which shall be the language of the proceeding.
- h. In accordance with Paragraph 6 of the Rules, the Provider appointed a three-member Panel with consideration to the nominees of the parties and selected a Chair. BCICAC named Elizabeth Cuddihy, Q.C., ICA. and Michael Erdle, FCI Arb, C. Arb., C. Med. as panelists. Douglas M. Isenberg, Esq. was named as Chair of the Panel.
- i. Absent exceptional circumstances, the time period for delivery of the decision was 21 calendar days, i.e. by November 2, 2018.

The Panel finds that it was properly constituted and appointed in accordance with the CDRP and the Resolution Rules. Based upon the information provided by BCICAC, the Panel finds that all technical requirements for the commencement and maintenance of this proceeding have been met.

5. Canadian Presence Requirement

Paragraph 1.4 of the CDRP states: "The person initiating a Proceeding (the 'Complainant') must, at the time of submitting a complaint (the 'Complaint'), satisfy the Canadian Presence Requirements for Registrants (the 'CPR') in respect of the domain name that is the subject of the Proceeding unless the Complaint relates to a trade-mark registered in the Canadian Intellectual Property Office ('CIPO') and the Complainant is the owner of the trade-mark." Paragraph 2 of the CPR sets forth a list of individuals and entities that may "hold and maintain the registration of, a .ca domain name," which list includes "the owner of a trade-mark which is the subject of a registration under the Trade-marks Act (Canada) R.S.C. 1985, c.T-13 as amended from time to time." The Complainant states, and provides evidence to support, that the Complaint relates to the trademark LUMILEDS, which is protected by Canadian trademark registration: No. TMA972248 (registered May 31, 2017) (the "LUMILEDS Canadian Trademark Registration"). As a result, the Panel is satisfied that the Complainant meets the CPR and is eligible to initiate this proceeding.

6. Factual Background and Parties' Contentions

a. Complaint

Complainant states that it was founded in 1997 and is “a global lighting solutions company that develops and manufactures lighting products for the automotive, mobile, display and illumination markets”; that it employs more than 9,000 people in more than 30 countries, including Canada; and that it “is most well-known as the inventor of Xenon technology, a pioneer in halogen lighting, and the leader in high performance LEDs.”

With respect to its Canadian presence and operations, Complainant states that it “has maintained corporate offices in Vancouver, British Columbia and Montreal, Quebec”; that “[f]rom 2012 to 2015, [it] maintained full-time sales and marketing personnel in Montreal, Quebec through an affiliated entity of Complainant’s parent at the time”; that “[p]rior to 2012, Complainant’s Canadian sales and marketing activities were performed by Complainant’s U.S.-based personnel, along with Complainant’s authorized distributors”; and that “[s]ince 2015, Complainant has maintained its presence in Canada by way of its subsidiary Lumileds Commercial Canada Inc., which is authorized by Complainant to use the LUMILEDS mark.”

With respect to the LUMILEDS trademark, Complainant states that “[s]ince no later than 2001, and continuing through the present, [its] lighting products have been offered under the distinctive mark LUMILEDS,” which “has been in constant use since at least 2001 by Complainant (Lumileds Holdings B.V.), its predecessors in interest (including Philips Lumileds Lighting Company), and/or its affiliates and subsidiaries (including Lumileds Commercial Canada Inc.).”

With respect to the LUMILEDS trademark in Canada, Complainant states that it is the owner of the LUMILEDS Canadian Trademark Registration described above, that is, No. TMA972248 (registered May 31, 2017); that it is the owner of a pending application for a logo containing the text LUMILEDS, No. 1,754,958 (filed May 16, 2015); and that it “enjoys common-law rights in the LUMILEDS Mark by virtue of its consistent use in commerce throughout Canada for more than 17 years.”

Regarding paragraph 3.1(a) of the CDRP, Complainant contends that “the Disputed Domain Name is comprised solely of the term LUMILEDS, which is identical to Complainant’s registered LUMILEDS mark.”

Regarding paragraph 3.1(b) of the CDRP, Complainant contends that Registrant has no legitimate interest in the Disputed Domain Name because, *inter alia*, “[a]t the time of filing this Complaint, the only active trademarks on the Canadian Trademarks Register for any mark consisting of or containing the word LUMILEDS are those owned by Complainant”; that “Complainant had been using its LUMILEDS Mark in Canada for over a decade prior to Registrant’s registration of the Disputed Domain Name”; that “Registrant had actual knowledge of Complainant’s ownership and use of the LUMILEDS Marks when it registered and began using the Domain Name, as demonstrated in the disclaimer on Registrant’s website”; that “Registrant was directly informed of Complainant’s objections to Registrant’s use of the LUMILEDS Mark in 2017 and responded by demanding a \$310,000 ransom payment”; that “[t]here is no, and never has been, any relationship between Complainant and Registrant regarding the use of the LUMILEDS Mark”; that “the LUMILEDS Mark is not a dictionary word and is therefore not descriptive in any sense, nor is it a

generic term”; that the Disputed Domain Name is used for commercial activity because it “resolves to Registrant’s e-commerce website, where consumers may purchase Registrant’s LED products – products that compete directly with Complainant’s products”; and that although the Disputed Domain Name “purportedly was registered by an entity named Lumileds Inc. on February 15, 2012... the Disputed Domain Name was not Registrant’s legal name at the time the Disputed Domain Name was registered” and instead “the legal name of the Registrant at the time of registration appears to have been Peter Mayer.”

Regarding paragraph 3.1(c) of the CDRP, Complainant contends that the Registrant should be considered as having registered the Disputed Domain Name in bad faith because, *inter alia*, “Registrant registered the Disputed Domain Name under a non-existent company name that happens to be identical to Complainant’s globally known LUMILEDS Mark”; “Registrant then developed a website to offer products identical to those offered by Complainant under a mark (LUMILEDS.CA) that is confusingly similar (indeed, identical) to Complainant’s LUMILEDS mark”; “Registrant had actual knowledge of Complainant’s prior rights in the LUMILEDS Mark at the time it registered the Disputed Domain Name”; “Registrant’s actions were calculated to disrupt, and did in fact disrupt, Complainant’s business”; Registrant’s actions are “highly likely to mislead Internet users into believing that the Registrant’s Website is the Complainant’s official Canadian website, or that the goods and services advertised on Registrant’s Website emanate from, or are sponsored or approved by Complainant” when “[i]n fact, Registrant is in no way authorized by Complainant to sell, and does not sell, Complainant’s products, which are the only products legitimately bearing the LUMILEDS Mark”; and “Registrant’s use of the LUMILEDS Mark on the Disputed Domain Name was intended to attract Internet users in order to sell them competing products falsely bearing the LUMILEDS Mark.”

Complainant requests that the Disputed Domain Name be transferred from the Registrant to the Complainant.

b. Response

Registrant states: “In early 2011, M. Pinhas Ifergan (president of the current Lumileds Inc. company) wanted to start an LED lighting business in Canada. While looking for a business/website name, he wanted to incorporate the two words ‘Lumiere’ and ‘LED’ (whereas[] ‘Lumiere’ is the [F]rench translation of the English word ‘light’ and LED’s, the common abbreviation used for ‘Light Emitting Diode’ in plural[]). The word LUMILEDS was selected and after doing a search on the CIRA and CIPO registry, he only found an ABANDONED word-mark ‘LUMILEDS’ under the CIPO file number 103507... and the [Disputed Domain Name] was registered on February 15, 2012 by M. Peter Miller a consultant and technical administrator for M. Pinhas Ifergan. On February 23rd 2012, M. Pinhas Ifergan updated the registrant name with its own name.”

Registrant further states that the Disputed Domain Name “was up and running in March 2012 and a first online sale was made on March 22, 2012”; that “[o]n March 4, 2013 a NUANS report was ordered for the name ‘LUMILEDS’... and on March 12, a Canadian Federal corporation was founded with the name LUMILEDS Inc.”; that “[o]n March 20 2013, the registrant received a UL (Underwriters Laboratories of Canada) certification of its LED light products”; that “[o]n April 18 & 19 2013, the registrant participated in an expo show (the MCEE 2013) featuring its products under the name of the [Disputed Domain Name]”; that “[o]n October 30, 2014 Complainant

registered its business ‘Lumileds Holding B.V. (Netherlands)’; that “[o]n November 17, 2014 complainant filed for LUMILEDS trademark knowingly that an existing active Canadian corporation (Lumileds [I]nc. Corporation Number #845211-3) along with an existing and active website (the [Disputed Domain Name]) listed under Registrant’s name”; that “[t]he registrant did not have the financial resources to monitor the CIPO registry in order to make an opposition and on May 31st, 2017 complainant’s trademark LUMILEDS status was automatically changed to registered”; and that “[o]n June 13 2017, only two weeks after complainant’s trademark LUMILEDS status was changed to registered, the complainant sent a Cease and Desist Letter to the registrant requesting to stop using the name LUMILEDS, cancel its business name Lumileds Inc., destroy all goods bearing the word lumileds.”

Regarding paragraph 3.1(a) of the CDRP, Registrant contends that, *inter alia*, none of the products on Registrant’s website using the Disputed Domain Name are similar to Complainant’s products; that Complainant’s LUMILEDS Canadian Trademark Registration was not registered until May 31, 2017, more than five years after Registrant’s “start of operations”; that “[a]t the time of Registrant’s business incorporation,” Complainant had only an abandoned trademark application for LUMILEDS (No. 1,035,067), which was filed in 1999 and abandoned in 2007”; that “[a]fter the registrant incorporated its business LUMILEDS INC. [i]t made the change on the [Disputed Domain Name] registrant name from its personal name PINHAS IFERGAN to LUMILEDS INC”; and that “PINHAS IFERGAN [is] a Canadian citizen who is the founder and owner of Lumileds Inc.”

Regarding paragraph 3.1(b) of the CDRP, Registrant contends that, *inter alia*, “Complainant had no rights on the LUMILEDS mark prior to the date of the [Disputed Domain Name] registration nor the Registrant’s Lumileds Inc. incorporation date” because Complainant’s trademark application No. 1,035,067 was filed in 1999 and abandoned in 2007, so “[t]his is a clear evidence that the complainant had no interest in the LUMILEDS mark in Canada at the time of the [Disputed Domain Name] registration nor Registrant incorporation date”; when Complainant contacted Registrant about the Disputed Domain Name on June 13, 2017, Registrant requested compensation of \$310,000 “for re-branding purposes” – not as a “ransom payment” – to cover such things as “[c]hanging the packaging artwork of dozens of existing products,” “[r]unning a new packaging production for all future products with a new name,” “[r]edesigning of its website, logo and content change,” “[a]dministrative cost associated with Corporate name , legal and banking change,” “[d]estroying over 20,000 products in stock of LED light having a laser marking of word LUMILEDS.CA,” “[d]estroying all existing promotional material, redesign and making new promotional material,” and “[i]nforming all current clients of a name change, redistributing new promotional material.” Registrant further contends that it “had a fully operational online business since March 2012” and that “Registrant’s [Disputed Domain Name] and corporate name LUMILEDS came from the combination of two words LUMI and LEDS. LUMI from word ‘Lumiere’ the [F]rench translation of the English word ‘light’ and LED’s , the known abbreviation for ‘Light Emitting Diode’ in plural.”

Registrant does not appear to make any direct argument regarding paragraph 3.1(c) of the CDRP, but instead appears to rely on its arguments regarding paragraph 3.1(b) of the CDRP.

Registrant requests compensation in the amount of \$5,000.00 under paragraph 4.6 of the CDRP, which states: “If the Registrant is successful, and the Registrant proves, on a balance of probabilities, that the Complaint was commenced by the Complainant for the purpose of attempting,

unfairly and without colour of right, to cancel or obtain a transfer of any Registration which is the subject of the Proceeding, then the Panel may order the Complainant to pay to the Provider in trust for the Registrant an amount of up to five thousand dollars (\$5000) to defray the costs incurred by the Registrant in preparing for, and filing material in the Proceeding. The Complainant will be ineligible to file another Complaint in respect of any Registration with any Provider until the amount owing is paid in full to the Provider.”

7. Discussion and Findings

To obtain a transfer of the Disputed Domain Name, Complainant must, as set forth in paragraph 4.1 of the CDRP, prove “on a balance of probabilities” that:

- (a) the Registrant’s dot-ca domain name is Confusingly Similar to a Mark in which the Complainant had Rights prior to the date of registration of the domain name and continues to have such Rights; and
- (b) the Registrant has registered the domain name in bad faith as described in paragraph 3.5; and the Complainant must provide some evidence that:
- (c) the Registrant has no legitimate interest in the domain name as described in paragraph 3.4.

Rights and Confusingly Similar

With respect to paragraph 3.1(a) of the CDRP, Complainant states, and Registrant does not dispute, that the LUMILEDS mark “has been in constant use since at least 2001 by Complainant (Lumileds Holdings B.V.), its predecessors in interest (including Philips Lumileds Lighting Company), and/or its affiliates and subsidiaries (including Lumileds Commercial Canada Inc.)” It is unclear from this statement whether Complainant had rights *in Canada* in the LUMILEDS trademark when the Disputed Domain Name was registered in 2012 – and, indeed, Complainant’s trademark application for the LUMILEDS trademark in Canada, No. 1,035,067, which was abandoned when the Disputed Domain Name was registered, clearly does not support the establishment of such rights.

However, the word “Rights” in the CDRP is undefined and, therefore, does not necessarily require rights in Canada, only rights in general. As previous panels have noted, “CIRA has removed the provisions in the CDRP Policy relating to ‘rights’ and ‘use’ of a mark. CIRA is of the view that these provisions have created overly technical and complex requirements in terms of qualifying for protection. This change will bring the CDRP in line on this issue with the Uniform Domain Name Dispute Resolution Policy (UDRP) used for top-level domain names, as well as dispute resolution processes of other major ccTLD registries.” *ArcelorMittal SA v. NETNIC Corporation Protective Registration Service*, Case No. DCA-1430-CIRA (BCICAC) (transfer of. <arcelormittal.ca>). The WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”), section 1.1.2, states: “Noting in particular the global nature of the Internet and Domain Name System, the jurisdiction(s) where the trademark is valid is not considered relevant to

panel assessment under the first element.”¹ Accordingly, for purposes of paragraph 3.1(a) of the CDRP, the Panel is of the opinion that Complainant has established that it had rights in the LUMILEDS trademark when the Disputed Domain Name was registered, regardless of whether those rights existed in Canada at that time.

Therefore, the Panel next examines whether the Disputed Domain Name is confusingly similar to the LUMILEDS mark. Paragraph 3.3 of the CDRP states: “In determining whether a domain name is ‘Confusingly Similar’ to a Mark, the Panel shall only consider whether the domain name so nearly resembles the Mark in appearance, sound or the ideas suggested by the Mark as to be likely to be mistaken for the Mark.” It is apparent that the Disputed Domain Name contains the LUMILEDS trademark – and *only* the LUMILEDS Trademark – in its entirety.

Accordingly, the Panel finds that Complainant has met its burden of proof with respect to paragraph 3.1(a) of the CDRP.

No Legitimate Interest

With respect to paragraph 3.1(b) of the CDRP, regarding a lack of legitimate interests, paragraph 3.4(e) states that the following, “if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate that the Registrant has a legitimate interest in a domain name”: “the domain name comprised the legal name of the Registrant or was a name, surname or other reference by which the Registrant was commonly identified.”

Here, the legal name of the Registrant is Lumileds Inc. A corporation information sheet provided by Registrant identifies corporation number 845211-3, with a date of incorporation of March 12, 2013. Although this date is after the date on which the Disputed Domain Name was registered (February 15, 2012), it appears as if the Disputed Domain Name was originally registered in the name of Lumileds Inc. Complainant argues that the Disputed Domain Name was therefore “registered deceptively and fraudulently by an entity that did not, at the time, even exist.” On the contrary, Registrant argues that the Disputed Domain Name was registered “by the registrant’s president as a home start-up business” and that “a year later, after a success start-up, the Registrant incorporated” as Lumileds Inc.

This raises the interesting question of whether, under paragraph 3.4(e) of the CDRP, “the legal name of the Registrant” must exist at the time of the registration of the Disputed Domain Name – an important issue here given that the Panel cannot ascertain the credibility of Registrant’s arguments as to why the Disputed Domain Name was registered under the name of Lumileds Inc. when such an entity did not exist as of the registration date. On the one hand, Registrant’s arguments are, if accurate, understandable, given the pre-incorporation activity in which many businesses commonly engage. On the other hand, it seems inappropriate that a domain name registrant should be able to establish legitimate interests at a later date simply by gaming the corporate registration process. Indeed, UDRP decisions have repeatedly held that a corporate registration alone does not confer rights or legitimate interests on a domain name registrant. See, e.g., *LifePoint Health, Inc. v. Life PT Medical, Inc., Lexie Morgan Luckner / Gary Luckner, Cory*, WIPO Case No. D2017-2087 (“[a]lthough such measures as registering as a corporation may in

¹ Although WIPO Overview 3.0 addresses the UDRP Paragraph 3.2(l) of the CIRA Domain Name Dispute Resolution Rules expressly allows references to “dispute resolution proceedings which apply to domain names registered under any other top level domain which the Complainant considers persuasive.”

certain circumstances serve as evidence of demonstrable preparations to use a Domain Name in connection with a *bona fide* offering of goods or services, they do not automatically establish *bona fide* under the Policy”).

The Registrant in this case asserts that it did have a bona fide intent to carry on business under the name Lumileds, that it used appropriate due diligence to determine that the name was available in Canada and that it has acquired a legitimate interest in the name by use in good faith for more than five years.

Accordingly, this is a difficult question that, in light of the Panel’s conclusions with respect to paragraph 3.1(c), below, the Panel need not fully address, and the Panel therefore declines to do so.

Bad Faith

Pursuant to paragraph 3.5 of the CDRP, the following “shall be evidence that a Registrant has registered a domain name in bad faith”:

- (a) the Registrant registered the domain name, or acquired the Registration, primarily for the purpose of selling, renting, licensing or otherwise transferring the Registration to the Complainant, or the Complainant’s licensor or licensee of the Mark, or to a competitor of the Complainant or the licensee or licensor for valuable consideration in excess of the Registrant’s actual costs in registering the domain name, or acquiring the Registration;
- (b) the Registrant registered the domain name or acquired the Registration in order to prevent the Complainant, or the Complainant’s licensor or licensee of the Mark, from registering the Mark as a domain name, provided that the Registrant, alone or in concert with one or more additional persons has engaged in a pattern of registering domain names in order to prevent persons who have Rights in Marks from registering the Marks as domain names;
- (c) the Registrant registered the domain name or acquired the Registration primarily for the purpose of disrupting the business of the Complainant, or the Complainant’s licensor or licensee of the Mark, who is a competitor of the Registrant; or
- (d) the Registrant has intentionally attempted to attract, for commercial gain, Internet users to the Registrant’s website or other on-line location, by creating a likelihood of confusion with the Complainant’s Mark as to the source, sponsorship, affiliation, or endorsement of the Registrant’s website or location or of a product or service on the Registrant’s website or location.

Complainant specifically argues that bad faith exists pursuant to both paragraphs 3.5(c) and 3.5(d) of the CDRP.

In some ways, this appears to be a simple dispute given that the Registrant registered the Disputed Domain Name after Complainant obtained rights in the LUMILEDS trademark and, despite Registrant’s arguments to the contrary, is using the Disputed Domain Name in connection with similar goods or services. However, the Panel again notes that Complainant did not have a trademark registration *in Canada* for the LUMILEDS trademark when the Disputed Domain Name was registered in 2012 and, indeed, Complainant had abandoned its application, No. 1035067, at that time. According to a record provided by Registrant, Complainant’s application was abandoned

on March 28, 2007, pursuant to Section 40(3) of the Canadian Trade-marks Act. That section provides that a trademark application shall be deemed to be abandoned if an applicant has not timely provided a declaration that the mark has been used in Canada. As a result, Registrant states that, although it was aware of Complainant, it relied on this abandoned trademark application when registering the Disputed Domain Name. Indeed, Registrant states that Complainant's abandoned trademark application "is a clear evidence that the complainant had no interest in the LUMILEDS mark in Canada at the time of the [Disputed Domain Name] registration nor Registrant incorporation date."

The Panel cannot agree that an abandoned trademark application is evidence of a lack of rights, given that a party may have common law rights.

However, it is significant to note that nowhere in the Complaint does the Complainant assert that it had rights in the LUMILEDS trademark in Canada on the date that the Disputed Domain Name was registered. While Complainant's current Canadian trademark registration for LUMILEDS, No. TMA972248, states that the mark was first used in Canada as early as 2001, the application for this registration was not filed until November 17, 2014, and Complainant has provided no evidence of use of the LUMILEDS trademark in Canada on or prior to February 15, 2012. Rather, the Complaint makes such generalized statements as "[t]he mark has been in constant use since at least 2001 by... Lumileds Commercial Canada Inc." and "Complainant enjoys common-law rights in the LUMILEDS Mark by virtue of its consistent use in commerce throughout Canada for more than 17 years." These statements – which are themselves not supported by any evidence – do not establish whether Complainant had rights in the LUMILEDS trademark in Canada on February 15, 2012.

There is no evidence that Complainant asserted any trademark rights prior to its trademark application in 2014 or took any action to stop the Registrant from using the corporate name Lumileds Inc. or the Disputed Domain Name prior to the June 13, 2017, demand letter referred to by the Respondent.

While the disclaimer on Registrant's website is evidence the Registrant was aware of the Complainant's <lumileds.com> domain name – and by inference of its international business and products – it is not evidence of awareness of any Canadian rights. On the other hand, it may constitute some evidence that Registrant did not intend to attract or divert traffic away from Complainant's website.

On the basis of the record and evidence before us, the Panel cannot conclude, on a balance of probabilities, that Registrant's primary purpose in registering the Disputed Domain Name was to disrupt Complainant's business under paragraph 3.4(c) of the CDRP or that Registrant intentionally attempted to attract Internet traffic by creating a likelihood of confusion under paragraph 3.5(d) of the CDRP.

Nor can the Panel conclude on the evidence that the Registrant's primary purpose in registering the Disputed Domain Name was to sell it to Complainant under paragraph 3.4(a). The Registrant's request for compensation was made only after receipt of Complainant's demand letter and is explained by reference to the cost of changing all of its products and marketing.

The Complainant has not claimed or provided any evidence that Respondent has “engaged in a pattern of registering domain names in order to prevent persons who have Rights in Marks from registering the Marks as domain names” under paragraph 3.4(b).

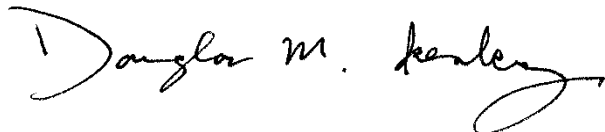
The CDRP, like the UDRP, provides a narrow proceeding for trademark owners in cases of certain abusive domain name registrations. It is not designed to deal comprehensively with other competing trademark or domain name rights or to assess the credibility of competing claims. See, e.g., *Jumblatt v. SlantMedia*, WIPO Case No. D2012-1011 (“[t]he Panel takes into account that the Policy was designed to deal with a certain limited category of abusive registration of domain names, but not as a means of litigating all disputes involving domain names”); *Thump Records, Inc. v. WebPros*, Forum Claim No. 446911 (referring to “[t]he limited scope of the Policy”); and *Shedrick v. Princeton*, Forum Claim No. 236575 (referring to “the very narrow scope of the UDRP procedure”).

In light of the above, the Panel finds that Complainant has not met its burden of proof with respect to paragraph 3.1(c) of the CDRP.

8. Decision

For all the foregoing reasons, in accordance with paragraph 4.3 of the CDRP, the Panel orders that the Disputed Domain Name <lumileds.ca> remain with Registrant.

Based on the record and evidence, the Panel does not find on a balance of probabilities, that the Complaint was commenced by the Complainant for the purpose of attempting, unfairly and without colour of right, to obtain a transfer of the Disputed Domain Name and, therefore, the Panel declines to order Complainant to pay any amounts under paragraph 4.6 of the CDRP.

A handwritten signature in black ink that reads "Douglas M. Isenberg". The signature is written in a cursive, flowing style with a large initial 'D' and a long, sweeping underline.

Douglas M. Isenberg (Chair, on behalf of the panel)
Elizabeth Cuddihy; and Michael Erdle

Dated: October 31, 2018