

## **ADMINISTRATIVE PANEL DECISION**

**Daniel Wellington AB v. CUI LONG**

**Case No. DRO2022-0002**

### **1. The Parties**

The Complainant is Daniel Wellington AB, Sweden, represented by SILKA AB, Sweden.

The Respondent is CUI LONG, China.

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

The disputed domain name <danielwellington.ro> is registered with ROTLD (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 11, 2022. On March 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 15, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on March 17, 2022, 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 amendment to the Complaint on March 18, 2022.

The Center verified that the Complaint together with the amendment to 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 March 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 10, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 11, 2022.

The Center appointed Beatrice Onica Jarka as the sole panelist in this matter on April 13, 2022. 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 Swedish company producing watches, straps, and jewellery for men and women. Founded in 2011, the Complainant has since grown significantly and become a global brand with products available with more than 6,000 retailers globally in more than 75 different countries.

The Complainant is the owner of the registered well-known trademark DANIEL WELLINGTON in several classes and countries all over the world including in Romania / European Union ("EU"). Trademark registrations include, but are not limited to the following EU registrations: DANIEL WELLINGTON registration number 018128795 from January 17, 2020; DANIEL WELLINGTON registration number 010553345 from June 7, 2012; and, in United States of America: DANIEL WELLINGTON registration number 4386043 from August 20, 2013.

The Complainant has previously successfully challenged several domain names infringing on the DANIEL WELLINGTON trademark through the UDRP process.

The Complainant has registered a number of domain names under various Top-Level Domains ("TLDs") containing the term "danielwellington", for example <danielwellington.com> (created February 16, 2011), as well as multiple others. Complainant uses these domain names to inform potential customers about its DANIEL WELLINGTON mark and its products and services.

The Respondent is CUI LONG and has an address from China. The Respondent registered the disputed domain name on September 6, 2021.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant contends that:

- the disputed domain name directly and entirely incorporates the Complainant's well-known registered trademark DANIEL WELLINGTON. The addition of a country-code Top-Level Domain ("ccTLD") such as ".ro" does not add any distinctiveness to the disputed domain name;
- the Respondent is not commonly known by the disputed domain name and there is no evidence that the Respondent has a history of using, or preparing to use, the disputed domain name in connection with a *bona fide* offering of goods and services;
- neither license nor authorization has been granted to the Respondent to use the Complainant's trademark DANIEL WELLINGTON or to apply for registration of the disputed domain name. It is furthermore clear that the intention of the disputed domain name registration was, and is, to sell the domain name for a profit due to the incorporation of the well-known DANIEL WELLINGTON trademark in the disputed domain name;
- there is no active website on the disputed domain name, rather, the domain name is redirected to its listing for sale at domain name marketplace Sedo, to which the disputed domain name resolves;
- the disputed domain name was registered in bad faith: It has to be noted that the Complainant's trademark registrations predate the registration of the disputed Domain Name and therefore it seems highly unlikely that the Respondent was not aware of the existence of the trademarks and the unlawfulness of the registration of the disputed domain name. Further, the Respondent has never been granted permission to register the domain name;

- the Respondent clearly knew about the Complainant's trademark at the time of the registration of the disputed domain name, as stated above, and proceeded to list it for sale with the intent to make a profit;
- the brand DANIEL WELLINGTON is a globally well-known trademark. It is highly unlikely that the Respondent was not aware of the right that the Complainant has in the trademark and the value of said trademark, when the disputed domain name was registered;
- the fact that the Respondent has listed the domain name for sale well in excess of Respondent's conceivable out of pocket costs is a clear indication of Respondent's bad faith registration and use and consequently, the Respondent should be considered to have registered and to be using the disputed domain name in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

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

The Panel finds that the Complainant has established its rights in the DANIEL WELLINGTON trademark.

The Panel finds that the disputed domain name reproduces the Complainant's trademark in its entirety and adds the ccTLD ".ro".

According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), paragraph 1.11, the addition of the ccTLD ".ro" is not to be taken into consideration when examining the identity or similarity between the Complainant's trademark and the disputed domain name, as it is viewed as a standard registration requirement.

Consequently, this Panel finds that the disputed domain name is identical to the trademark DANIEL WELLINGTON in which the Complainant has rights, and therefore the first element of paragraph 4(a) is established.

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

In order to establish the second element of the Policy, based on the UDRP practice, the Complainant has to show that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes a *prima facie* showing, the burden of production of evidence shifts to the Respondent, with the overall burden of proof always remaining on the Complainant. See section 2.1 of the [WIPO Overview 3.0](#).

In these proceedings, this Panel considers that the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and such showing has not been rebutted by the Respondent, as the Respondent did not reply to the Complainant's contentions.

The Respondent is not commonly known by the disputed domain name and there is no evidence as apparent to the Complainant that the Respondent has a history of using, or preparing to use, the disputed domain name in connection with a *bona fide* offering of goods and services. The Complainant confirms that neither license nor authorization has been granted to the Respondent to use the Complainant's trademark DANIEL WELLINGTON or to apply for registration of the disputed domain name. There is no active website on the disputed domain name and is redirected to its listing for sale at domain name marketplace Sedo, to which the disputed domain name resolves.

Not being able to identify any grounds for legitimate rights or interests by the Respondent of the disputed domain name, it is the opinion of this Panel that the Complainant has sufficiently demonstrated, without the same being rebutted, that the Respondent lacks any rights or legitimate interests in the disputed domain name and consequently, the second element of the paragraph 4(a) of the Policy is; therefore, established.

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

This Panel notes that the disputed domain name redirects to its listing for sale at the domain name marketplace Sedo.

Considering that the Complainant's trademark registrations predate the registration of the disputed domain name, this Panel agrees with the Complainant that it seems highly unlikely that the Respondent was not aware of the existence of the Complainant and its marks when registering the identical disputed domain name.

Such awareness of the Complainant's trademark at the time of the registration combined with the actual use of the disputed domain of redirection to its listing for sale on a marketplace, well in excess of Respondent's conceivable out of pocket costs, represent, in the opinion of this Panel, a clear indication of Respondent's opportunistic bad faith intention to acquire and sell the disputed domain name in order to make profit on the Complainant's DANIEL WELLINGTON trademark. See section 3.1.1 of the [WIPO Overview 3.0](#).

Consequently, in light of the above-mentioned circumstances in the present case, the Panel finds that the disputed domain name has been registered and is being used in bad faith and that the Complainant has established the third element under paragraph 4(a)(iii) 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, <danielwellington.ro>, be transferred to the Complainant.

*/Beatrice Onica Jarka/*

**Dr. Beatrice Onica Jarka**

Sole Panelist

Date: April 27, 2022