

## **ADMINISTRATIVE PANEL DECISION**

The Polo/Lauren Company L.P. v. Alexandrescu Radu  
Case No. DRO2022-0003

### **1. The Parties**

The Complainant is The Polo/Lauren Company L.P., United States of America, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Alexandrescu Radu, Romania.

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

The disputed domain name <ralphlauren.ro> is registered with ROTLD – Romanian Top Level Domain (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 4, 2022. On April 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 5, 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. According to the information disclosed by the Registrar, the Registration Agreement language is Romanian, the Center sent a Language of Proceedings communication to the Parties on April 13, 2022, and an email communication to the Complainant on April 13, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. An informal communication from a third party was received by the Center on April 13, 2022. The Complainant filed an amended Complaint requesting English to be the language of proceedings on April 14, 2022.

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 May 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 24, 2022. The Respondent did not submit any response. Accordingly,

the Center notified the Respondent's default on June 13, 2022.

The Center appointed Comanescu, Marilena as the sole panelist in this matter on June 23, 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**

Ralph Lauren, an American fashion designer, launched his own fashion house under the brand and trademark RALPH LAUREN in 1967. The Complainant is a global leader in the design, marketing and distribution of premium lifestyle products across apparel, accessories, home, fragrances and hospitality.

Currently, the Complainant together with its affiliated companies, is present in 548 retail stores and 650 concession-based shops-within-shops, employs 20,300 employees worldwide, is listed on the New York Stock Exchange and achieved net revenues of over USD 4,4 million in the fiscal year 2021.

The Complainant received numerous recognitions and accolades in its industry.

The Complaint holds trademark registrations for RALPH LAUREN such as the following:

- the Romanian word trademark registration No. 053643 filed on December 18, 2002, and registered on June 20, 2003, and claiming goods in International Class 25; and
- the European Union word trademark registration No. 004049243 filed on September 29, 2004 and registered on November 17, 2005, for goods in International Classes 9, 18, 20, 21, 24 and 25.

The Complainant's main website is available at "www.ralphlauren.com" registered since September 25, 1996 and with 9.8 million individual visits in January 2022 alone.

The disputed domain name <ralphlauren.ro> was registered on September 24, 2007 and, at the time of filing the Complaint, it resolved to the Complainant's website. According to the Complainant, the disputed domain name has active MX records.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that the disputed domain name is identical to its well-known trademark RALPH LAUREN, the Respondent has no rights or legitimate interests in the disputed domain name, and the Respondent registered and is using the disputed domain name in bad faith. The Complainant requests the transfer of the disputed domain name to it.

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

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

An informal communication from a third party was received by the Center on April 13, 2022. However this communication states only that the recipient does not understand why it is a defendant in a litigation and requests the language of the procedures to be Romanian. The Center, having acknowledged said communication, did not receive any further submissions.

## 6. Discussion and Findings

In view of the absence of a Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

- (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 the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

### 6.1. Preliminary Matter: Language of the Proceeding

The Complaint was filed in English.

The language of the Registration Agreement is Romanian.

In an informal communication sent to the Center on April 13, 2022, a third party claiming it is the Respondent, states that it does not understand the sense of many words in English and requests Romanian to be the language of the proceeding. However, to the Center's email communication of April 13, 2022, both in English and Romanian, requesting to clarify its identity and relationship with the Respondent, no reaction was received.

Under paragraph 11 of the Rules, the language of the proceeding is the language of the registration agreement of the disputed domain name, unless both parties agree otherwise, or the Panel determines otherwise based on one party's request. A panel may decide that the proceeding should be conducted in another language than that the registration agreement when it is necessary due to the specific circumstances of the case, such as for example when the complainant does not understand the language of the registration agreement and it would therefore be unfairly disadvantaged by the fact that it must translate all the documents involved in such proceeding.

In the present proceeding, the Complainant does not understand Romanian and requested that English be the language of the proceeding. Also, the Respondent, having been notified of the present proceeding in both English and Romanian, failed to provide any response.

The website under the disputed domain name is redirected on the Complainant's website, which is in English.

The Panel is familiar with both languages and therefore is able to understand the submissions made by the parties in either of these two languages.

Noting the aim of conducting the proceeding with due expedition, paragraph 10 of the UDRP Rules vests the Panel with authority to conduct the proceeding in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case.

The Panel considers that the Complainant will only be disadvantaged if required to translate the Complaint into Romanian and the proceeding will be unduly delayed. See section 4.5.1. of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

For all the above, the Panel decides that English is the language of the proceeding.

## 6.2. Substantive Matters

### A. Identical or Confusingly Similar

The Panel finds that the Complainant holds rights in the RALPH LAUREN trademark.

The disputed domain name <ralphlauren.ro> incorporates the Complainant's trademark in its entirety.

Further, it is well established in decisions under the UDRP that the country-code Top-Level Domain ("ccTLD") (e.g., ".ro", ".com", ".org") may typically be disregarded for the purposes of consideration of identity or confusing similarity between a trademark and a domain name. See section 1.11 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name <ralphlauren.ro> is identical to the Complainant's trademark RALPH LAUREN, pursuant to the Policy, paragraph 4(a)(i).

### B. Rights or Legitimate Interests

The Complainant asserts that it has given no license or other right to use its trademark to the Respondent, that the Respondent is not commonly known by the disputed domain name, and that the Respondent has not used the disputed domain name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods and services.

Under the Policy, "a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the UDRP". See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent has not substantially replied to the Complainant's contentions to advance a claim to any rights or legitimate interests in the disputed domain name.

Further, there is no evidence before the Panel to suggest that the Respondent has made a *bona fide* use of the disputed domain name, or has been commonly known by the disputed domain name, or is making any legitimate noncommercial or fair use of the disputed domain name.

In fact, at the time of filing the Complaint the disputed domain name resolved to the Complainant's website and had active MX records.

The redirection of the disputed domain name to the Complainant's own website, along with the active MX records, together with the composition of the disputed domain name, support that the Respondent may be attempting to pass off as the Complainant and potentially use the disputed domain name for email communications in order to potentially obtain sensitive information from the Complainant's customers, which could be deemed fraudulent conduct and would not confer rights or legitimate interests on the Respondent.

Furthermore, and without prejudice to the above, the nature of the disputed domain name, comprising the Complainant's trademark in its entirety, carries a high risk of implied affiliation. See section 2.5.1 of the [WIPO Overview 3.0](#).

For all these reasons, the Panel finds that the second element of the Policy is established, and the Respondent has no rights or legitimate interests in respect of the disputed domain name, pursuant to the Policy, paragraph 4(a)(ii).

### C. Registered and Used in Bad Faith

The Complainant holds trademark rights for RALPH LAUREN since 1967. Due to its extensive use and marketing, the RALPH LAUREN trademark has become well-known worldwide.

The disputed domain name was created in 2007, and reproduces the Complainant's mark exactly, with the two words composing it written together, without space.

It defies common sense to believe that the Respondent coincidentally selected the precise domain name without any knowledge of the Complainant and its trademark. From the above, the Panel finds that the disputed domain name was registered in bad faith, knowing the Complainant and targeting its trademark.

As noted above, at the time of filing the Complaint the disputed domain name resolved to the Complainant's website. In the Panel's view, this simple redirection to an already existing website is equivalent to the Respondent making no use of the disputed domain name.

Also, when the Panel visited the website under the disputed domain name, the content was changed into an error page.

From the inception of the UDRP, UDRP panels have found that the non-use of a domain name (including a blank, error page or "coming soon" or other similar inactive page) would not prevent a finding of bad faith under the doctrine of passive holding. The Panel must examine all the circumstances of the case to determine whether the Respondent is acting in bad faith. Examples of what may be relevant circumstances found to be indicative of bad faith include the degree of distinctiveness or reputation of the Complainant's mark and the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good faith use. See section 3.3 of the [WIPO Overview 3.0](#).

As previously mentioned, the Complainant's trademark has been used for more than half a century and is famous worldwide; and, although properly notified, the Respondent did not submit a response in order to provide any plausible reason for registering and passively holding the disputed domain name.

Furthermore, according to evidence on the record, the disputed domain name has active MX records. This entails that the Respondent can send emails through the email address "@ralphlauren.ro". The Respondent can therefore use (or may already have used) the disputed domain name to send fraudulent emails such as messages containing spam, phishing attempts, etc. See also *Confédération Nationale du Crédit Mutuel, Crédit Industriel et Commercial v. Khodor Dimassi*, WIPO Case No. [D2016-1980](#); or *Statoil ASA v. Registration Private, Domains By Proxy, LLC / Eldar Saetre*, WIPO Case No. [D2018-0563](#).

Furthermore, it has been consistently found by previous UDRP panels that the mere registration of a domain name that is identical or confusingly similar to a third party's well-known trademark can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

### 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 <ralphlauren.ro> be transferred to the Complainant.

/Marilena Comanescu/

**Marilena Comanescu**

Sole Panelist

Date: July 7, 2022