

ADMINISTRATIVE PANEL DECISION

Louis Vuitton Malletier v. strungariu petru marius
Case No. DRO2022-0006

1. The Parties

The Complainant is Louis Vuitton Malletier, France, represented by Studio Barbero SpA, Italy.

The Respondent is strungariu petru marius, Romania.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 31, 2022. On August 31, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 1, 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 September 1, 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 September 5, 2022. On September 1, 2022, the Center transmitted an email in English and Romanian to the Parties regarding the language of the proceeding. The Complainant confirmed its request that English be the language of the proceeding on September 1, 2022. The Respondent did not comment on the language of the proceeding.

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 September 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 29, 2022. The Center received email communications from the Respondent on September 22, 2022.

The Center appointed Marilena Comanescu as the sole panelist in this matter on October 7, 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, established in Paris in 1854, is a French fashion house part of the multinational luxury goods conglomerate LVMH Moët Hennessy Louis Vuitton, known as LVMH.

Initially selling canvas-coated trunks, in 1998, the Complainant, with the aid of Marc Jacobs as Artistic Director, launched LOUIS VUITTON fashion label, which included ready-to-wear shoes, accessories and jewelry, and continued to expand.

LVMH Group employs over 160,000 people, its brands generated in 2021 about EUR 64,2 billion and runs over 5,500 stores worldwide. Today, the Complainant's products are sold on its official website and its own boutiques, with a small number of exceptions inside luxury department stores. The LOUIS VUITTON trademark is supported by intensive worldwide advertising campaigns, featuring famous models, musicians and actors, has a strong presence on Internet and was listed since 2000 in the top 20 most valuable brands in the world according to InterBrand Best Global Brands List.

The Complainant holds trademark registrations for LOUIS VUITTON in various countries and territories through the world such as the following word marks:

- the International trademark registration No. 416052 for LOUIS VUITTON registered on June 19, 1975, covering goods in Nice classes 3, 6, 8, 13, 14, 16, 18, 20, 21, 24, 25, 28, 34; and

- the International trademark registration No. 1127685 for LOUIS VUITTON registered on April 16, 2012, covering goods in Nice classes 3, 4, 6, 8, 9, 12, 14, 16, 20, 21, 24, 25, 26, 28, and 34.

The Complainant owns numerous domain names including the trademark LOUIS VUITTON, the primary web portal being "www.louisvuitton.com", registered on February 18, 1997.

The disputed domain name <louisvuitton.ro> was registered by the Respondent on January 28, 2019.

According to the evidence provided as Annex 8.1 to the Complaint, the disputed domain name originally resolved to a web page where the announcements "Buy this site now!!!" and "Click here for more domains premium" (in Romanian) together with a telephone number were displayed. When accessing the link provided, the Internet users were redirected on the website <domeni.ro> where a list of other domain names, some of them containing third parties' trademarks, was displayed.

On March 22, 2022, the Complainant, through a web agency, contacted the Respondent in order to attempt to acquire information on the Respondent's projects in relation to the disputed domain name and to explore possible availability and conditions to assign it. After several reminders and a telephone conversation, the Respondent sent an email requesting USD 4,000 for the transfer of the disputed domain name.

On April 28, 2022, the Complainant sent a Cease-and-Desist letter to the Respondent requesting the transfer of the disputed domain name to it. On May 2, 2022, the Respondent answered denying to have infringed the Complainant's rights and asserting that "(he) paid an auction fee plus the value of the domain, which cost me a total of 4,000 \$". The Parties continued the correspondence and, after several communications, on May 8, 2022, the Respondent requested USD 2,500; and on May 23, 2022, the Respondent replied that "I give up all the investment made and I will leave it at the price of 1,000 USD".

Such correspondence between Parties is provided as Annexes 10, 11, and 12 to Complaint and it is not contested by the Respondent.

At the time of filing the Complaint, the disputed domain name resolved to a similar landing page as described above, with a black background and displaying a telephone number as contact information, whilst the prior announcements about the offer for sale and the reference link to the “www.domeni.ro” website were removed.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical to its well-known trademark LOUIS VUITTON, 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, in particular to resell it to the Complainant in excess of the out-of-the-pocket costs directly related to the disputed domain name.

Further, the Respondent registered several domain names comprising third parties’ well-known trademarks and this constitutes a “pattern” of bad faith conduct.

The Complainant requests the transfer of the disputed domain name to it.

B. Respondent

The Respondent did not formally respond to the Complainant’s contentions, however he submitted two communications to the Center stating mainly that he paid “(...) somewhere just over 1,000 USD for domain plus capture. If I get this amount back then I will immediately do the domain transfer otherwise I am willing to judge myself and I will not give up anything”.

6. Discussion and Findings

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; and
- (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.

The Complainant requests the language of the proceeding be English mainly because it does not understand Romanian and it would be unfairly disadvantaged by the fact that it must translate all the documents in Romanian, and because the Respondent demonstrated to have command of English as the correspondence between the Parties, before the commencement of the present proceeding, was conducted in English.

The Respondent, having been notified of the present proceeding in both English and Romanian, failed to provide any response with regard to the language of the proceeding. The two email communications sent to the Center on September 22, 2022, were in English.

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 of 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.

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

The Panel considers that the Complainant will 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](#)").

Further, from the evidence before it, the Panel is satisfied that the Respondent has the ability to understand and communicate in English.

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 LOUIS VUITTON trademark.

The disputed domain name <louisvuitton.ro> reproduces the Complainant's trademark exactly.

Further, it is well established in decisions under the UDRP that the country-code Top Level Domain ("ccTLD"), in this case ".ro", being a technical requirement for registering Internet domain names, may typically be disregarded for the purpose of consideration of confusing similarity between a trademark and a domain name. See section 1.11.1 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name is identical to the Complainant's trademark, 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 or register 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, "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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element". See section 2.1 of the [WIPO Overview 3.0](#).

Paragraph 4(c) of the UDRP Policy states that any of the following circumstances, in particular but without limitation, if found by the Administrative Panel to be proved based on its evaluation of all evidence presented, shall demonstrate the domain name registrant's rights or legitimate interests to the domain name for the purposes of paragraph 4(a)(ii) of the Policy:

- (i) before any notice to the domain name registrant of the dispute, the registrant's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the domain name registrant (as an individual, business, or other organization) has been commonly known by the domain name, even if the registrant has acquired no trademark or service mark rights; or
- (iii) the domain name registrant is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

In the present case, the disputed domain name incorporates exactly the trademark of the Complainant and is kept inactive. Before commencing this proceeding, the disputed domain name was offered for public sale, together with other domain names incorporating third parties' trademarks. This cannot be considered an evidence demonstrating that the Respondent has made a *bona fide* use of the disputed domain name, or has been known by this disputed domain name, or is making any legitimate noncommercial or fair use of the disputed domain name.

The Respondent defends himself claiming, in particular, that the domain name was acquired in an auction. Such allegations cannot be accepted entirely, as the business of selling and buying domain names is a legitimate business as long as it does not infringe the rights of a third party. Such provisions are expressly included in the Registration Agreement for the disputed domain name signed with the Registrar which stipulates at art. 3 that the registrant is requested to investigate to see whether the selected domain name infringes the legal rights of others.

Furthermore, generally speaking, UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation. See section 2.5.1 of the [WIPO Overview 3.0](#).

Consequently, the Panel finds that the Respondent has no rights or legitimate interests in 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 LOUIS VUITTON for about 165 years and LOUIS VUITTON trademark is highly distinctive and well-known worldwide. See also *Louis Vuitton v. Net-Promotion*, WIPO Case No. [D2000-0430](#) and *Louis Vuitton Malletier SAS v. Jamey, Wakeen Industries LLC*, WIPO Case No. [D2021-1201](#).

The Respondent registered the disputed domain name in January 2019. Based on the available record, the Panel finds that the Respondent registered the disputed domain name due to its significance as a trademark owned by the Complainant.

The disputed domain name was not actively used at the time of filing the Complaint, only displaying a telephone number as contact information. However, from the inception of the UDRP, panels have found that the non-use of a domain name (including a blank 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 provide any arguments or

evidence in its favor or to provide any evidence of actual or contemplated good-faith use. See section 3.3 of the [WIPO Overview 3.0](#).

In this case, the disputed domain name reflects the Complainant's well-known trademark, the Respondent has failed to provide relevant evidence to support any noncommercial or good faith use or a plausible explanation for choosing the disputed domain name or for its non-use.

Further, before commencing this proceeding, the disputed domain name was offered for public sale on a third party website. At the Complainant's request, the Respondent offered to sell the disputed domain name for various amounts, varying between USD 4,000 to USD 1,000. Consequently, the Panel deems applicable the circumstances listed under paragraph 4(b)(i) of the Policy providing that the Respondent has registered the disputed domain name primarily for the purpose of selling or otherwise transferring the domain name registration to the Complainant or its competitors for an amount likely in excess of the documented out-of-pocket costs.

As listed under section 4 above, the Respondent appears to hold and offer for sale several domain names incorporating third parties' trademarks. This can be considered another evidence of bad faith behavior, a pattern of bad faith conduct. Paragraph 4(b)(ii) of the Policy lists the situation when the respondent has registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct. Paragraph 3.1.2 of the [WIPO Overview 3.0](#) explains that a pattern of conduct has also been found where the respondent registers, simultaneously or otherwise, multiple trademark-abusive domain names corresponding to the distinct marks of individual brand owners.

Furthermore, it was 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 constitutes, by itself, a presumption of bad faith registration for the purpose of Policy. 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 <louisvuitton.ro> be transferred to the Complainant.

/Marilena Comanescu

Marilena Comanescu

Sole Panelist

Date: October 21, 2022