

## **ADMINISTRATIVE PANEL DECISION**

Mr. Liviu Tudor v. Balcangiu Irina, Home  
Case No. D2023-2629

### **1. The Parties**

The Complainant is Mr. Liviu Tudor, Romania, represented by Simion & Baciu SCA, Romania.

The Respondent is Balcangiu Irina, Home, Romania.

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

The disputed domain names <liviu-tudor.com>, and <liviu-tudor.info> are registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 16, 2023. On June 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 20, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Doe) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 21, 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 June 26, 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 July 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 26, 2023.

The Center appointed Beatrice Onica Jarka as the sole panelist in this matter on August 8, 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 Romanian businessman, Chairman of Genesis Development Offices S.A., a real estate investment and development company, and the founder and the president of the Romanian Association of Building Owners, the Vice-Chairman in the Managing Committee of the European Property Federation and the Secretary General of the Romanian Association for the Club of Rome. The Complainant is ranked in various publications among the richest persons in Romania.

The Complainant holds an Aeronautics degree from the Polytechnics Institute of Bucharest, and a PhD in the field of Management presented in December 2017 with the Academy of Economic Studies of Bucharest, Romania, and has also completed studies with the London Business School.

In response to the COVID-19 pandemic, the Complainant pioneered the IMMUNE Building Standard™, an innovative global standard that certifies the resilience of buildings to health threats.

As part of his activity, the Complainant authored many press articles, teaching materials dedicated to the business and real-estate development environments, and has participated in many televised interviews or been featured in considerable online video materials.

As a result of his professional par course and popularity, the name of the Complainant became synonymous with the “Liviu Tudor” brand for business management and investments consultancy and the Complainant therefore claims unregistered rights in his personal name. Under his own brand and name “Liviu Tudor” the Complainant developed an educational project published on his official and dedicated website at the domain name <liviu-tudor.ro>, where students can publish and brainstorm business development ideas, participate at business management and entrepreneurship courses and even take part in dedicated competitions. The Complainant is also the owner of the Romanian trademark registration no. 139734, LT LIVIU TUDOR (fig.), registered on June 20, 2015.

In addition to the above, Claimant also holds rights of use with respect to various domain names which include the “Liviu Tudor” trademark, either alone, or in combination with other verbal elements, such as:

- <liviu-tudor.net>;
- <liviu-tudor.biz>;
- <liviu-tudor.club>;
- <liviu-tudor.co>; and
- <liviu-tudor.mobi>.

The Respondent is an individual from Romania. The disputed domain name <liviu-tudor.com> was registered on August 1, 2014, but later updated on July 27, 2023, and resolves to a website which displays allegedly defamatory information about the Complainant and his business. The disputed domain name <liviu-tudor.info> appears to have been registered on July 27, 2023, and resolves to a parked website with pay-per-click (“PPC”) links.

#### 5. Parties’ Contentions

##### A. Complainant

By the Complaint, the Complainant contends that:

- The disputed domain names are identical or confusingly similar to a trademark of the Complainant,
- The mere addition of a hyphen between the terms “liviu” and “tudor” in the disputed domain names is not sufficient to dismiss the similarity to the Complainant’s registered and unregistered rights.

- To the best of the Complainant's knowledge, the Respondent is not authorized by the Complainant to use the LT LIVIU TUDOR trademark in any manner, therefore, implicitly; the Complainant did not consent to the registration and reservation by the Respondent of the disputed domain names.
- The Respondent did not register "liviu tudor" trademarks in any jurisdiction.
- The Respondent does not own any rights or legitimate interests towards the disputed domain names.
- Due to the confusing similarity between the disputed domain names and the Complainant's rights, Internet users would be misled that by accessing the websites associated with the disputed domain names.
- The name LIVIU TUDOR and trademark LT LIVIU TUDOR enjoys an increased distinctive character acquired through its extensive use in the business, research, development and education fields in Romania for the past 20 years.
- The Respondent was never mandated, authorized, or a licensee by the Complainant to use the Complainant's trademark, or register any domain names.
- The Respondent appears to have been using the disputed domain names for publishing defamatory content and false accusations about the Complainant and its business activities. This is directly damaging the reputation acquired by Complainant under his personal name and registered mark. By registering the disputed domain names, without Complainant's authorization, Internet users could believe that there is an authorized association between the Respondent and the Complainant.
- The mere intention behind the registration the disputed domain names being to mislead Internet users and publishing defamatory information about the Complainant is ultimately going to generate damages to the Complainant and its overall activity and brand name in Romania.

## **B. Respondent**

Although properly summoned, the Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

### **6.1 Procedural issue - Refiling in respect of the disputed domain name <liviu-tudor.com>**

The Policy, Rules, and Supplemental Rules do not explicitly address whether a prior decision denying transfer of a domain name precludes a complainant from filing a new complaint concerning the same domain name against the same respondent.

However, section 4.18 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") is clear that when refiling a case, a complainant must clearly indicate the grounds it believes would justify acceptance of the refiled complaint. This principle has been confirmed by panels in a number of cases, e.g., the decisions *Grove Broadcasting Co. Ltd. v. Telesystems Communications Limited*, WIPO Case No. [D2000-0703](#), and *Creo Products, Inc. v. Website In Development*, WIPO Case No. [D2000-1490](#).

The present matter concerns the disputed domain name <liviu-tudor.com>, which was part of a previous UDRP proceeding, *Liviu Tudor v. Andra Matei*, WIPO Case No. [D2014-1903](#), filed by the Complainant. The UDRP panel denied the Complaint based on that submitted evidence did not sufficiently show that the Complainant had unregistered rights in his personal name in accordance with the Policy.

Since then, according to the Complainant, it has obtained the ownership of the Romanian trademark registration no. 139734, LT LIVIU TUDOR (fig.), registered on June 20, 2015.

This Panel finds that the refiled Complaint is acceptable for the following reasons:

- according to the Registrar, the present registrant of the disputed domain <liviu-tudor.com>, is Irina Balcangiu, Home, *i.e.*, a different respondent from *Liviu Tudor v. Andra Matei, supra*; and
- even if the present proceeding concerns the same disputed domain name, the Panel is persuaded that legally relevant developments have occurred since the original UDRP decision, according to [WIPO Overview 3.0](#), section 4.18.

## 6.2 Substantive issue

### A. Identical or Confusingly Similar

The Complainant holds a trademark registration LT LIVIU TUDOR since 2015 and claims to have unregistered rights in his personal name LIVIU TUDOR. Previous panels have found that “[...] personal names which are not registered or otherwise protected as trademarks. In situations however where a personal name is being used as a trademark-like identifier in trade or commerce, the complainant may be able to establish unregistered or common law rights in that name for purposes of standing to file a UDRP case[.]”. See section 1.5.2 of the [WIPO Overview 3.0](#). The timing of the latter is discussed below.

The Panel agrees that the disputed domain names are virtually identical to the Complainant’s registered and unregistered trademark, with only the addition of a hyphen. The addition of the generic Top-Level Domains (“gTLD:s”) “.com” and, “.info”, may be disregarded under the first element, as they are viewed as a standard registration requirement. See section 1.11.1 of the [WIPO Overview 3.0](#).

The Panel finds that based on the above the Panel, the Complainant has succeeded to demonstrate the first element of the Policy in respect of both disputed domain names.

### B. Rights or Legitimate Interests

Under the second element of the Policy, the Complainant has to show that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes that *prima facie* showing, the burden of production shifts to the Respondent, according to the section 2.1 of the [WIPO Overview 3.0](#).

In these proceedings, the Panel finds that the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain names and such showing has not been rebutted by the Respondent, as it did not submit any Response or other informal communication during the proceeding.

There is no evidence that the Respondent is commonly known as the Complainant’s name and trademark. According to the Complainant, it has not authorized the Respondent to use or register any domain names using the LT LIVIU TUDOR trademark and its unregistered trademark.

Previous panels have found that domain names carries a high risk of implied affiliation, if they are identical to a complainant’s trademark. See section 2.5.1. of the [WIPO Overview 3.0](#). The Panel finds that this applies to the present case, While the disputed domain name <liviu-tudor.info> resolves to a PPC website, the disputed domain name <liviu-tudor.com> appears to resolve to a website that displays allegedly defamatory information about the Complainant.

The UDRP recognizes that noncommercial free speech could be seen as fair use and support a respondent’s claim to legitimate interest under the Policy, but panels have found that even a general right to

legitimate criticism does not necessarily extend to registering or using a domain name identical to a trademark. See sections 2.6 and 2.6.2 of the [WIPO Overview 3.0](#). The Panel notes that in the present proceeding the Respondent has not in any event submitted a Response and not made any claims in support of a legitimate interest to the disputed domain name <liviu-tudor.com>.

Accordingly, the Panel finds that the Complainant has fully demonstrated that the Respondent lacks rights or legitimate interests in the disputed domain name, and consequently, the second element of paragraph 4(a) of the Policy is therefore established.

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

According to paragraph 4(a)(iii) of the Policy the Complainant has to prove both registration and use of the disputed domain names are in bad faith.

In respect to the first domain name <liviu-tudor.info>, the Panel agrees with the Complainant that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark. In addition, the lack of use of the disputed domain name does not prevent a finding of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#). The Panel finds that the Respondent has not demonstrated any legitimate use in respect of the disputed domain name, and given the circumstances of the case, it is not possible to conceive of any plausible actual or contemplated active use in good faith of the disputed domain name by the Respondent. Considering also that the Respondent did not submit a Response, the Panel finds that all the above circumstances indicate that the Respondent has registered and used the disputed domain name <liviu-tudor.info> in bad faith in accordance with paragraph 4(a)(iii) of the Policy.

In respect to the second disputed domain name, <liviu-tudor.com>, the Panel has to consider the registration date, *i.e.*, August, 2014. The Complainant's trademark was registered on June 20, 2015.

According to section 3.8.1 of the [WIPO Overview 3.0](#), "[m]erely because a domain name is initially created by a registrant before a complainant's trademark rights accrue does not however mean that a UDRP respondent cannot be found to have registered the domain name in bad faith. Irrespective of the original creation date, if a respondent acquires a domain name after the complainant's trademark rights accrue, the panel will look to the circumstances at the date the UDRP respondent itself acquired the domain name."

The Panel has no information of the exact date when the Respondent acquired the disputed domain name <liviu-tudor.com>. The Panel notes that last update change of the disputed domain name was July 27, 2023, which may be the date the present Respondent took over the disputed domain name. This is also a date after which the Complainant had acquired registered trademark rights. The Panel also notes that the Respondent in the previous proceeding, *Liviu Tudor v. Andra Matei, supra*, concerned a different respondent – signaling a later acquisition of the relevant disputed domain name after the initial registration, which has not been addressed by the Respondent. See notably also in this regard [WIPO Overview 3.0](#) section 3.8.2.

Using a domain name to post false and defamatory content – which claim is not rebutted here – is an indicator of bad faith. See section 3.12 of the [WIPO Overview 3.0](#). The Respondent registered a domain name that is identical to the Complainant's mark, rather than one clearly indicating that the disputed domain name was intended for criticism, is a further indicator of bad faith. The Panel draws an adverse inference from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for.

This Panel finds that all the above circumstances indicate that the Respondent has registered and used the disputed domain name <liviu-tudor.com> in bad faith in accordance with 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 names, <liviu-tudor.com>, and <liviu-tudor.info>, be transferred to the Complainant.

*/Dr. Beatrice Onica Jarka/*

**Dr. Beatrice Onica Jarka**

Sole Panelist

Date: August 22, 2023