ARBITRATION
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# ADMINISTRATIVE PANEL DECISION
2U Laundry, Inc. v. Contact Privacy Inc. Customer 7151571251 / Brett Allen, Southern Laundry Solutions
Case No. D2022-2486

## 1. The Parties

Complainant is 2U Laundry, Inc., United States of America ("United States"), represented by CLARK.LAW, United States.

Respondent is Contact Privacy Inc. Customer 7151571251, Canada / Brett Allen, Southern Laundry Solutions, United States.

## 2. The Domain Name and Registrar

The disputed domain name <laundrolab.com> is registered with Google LLC (the "Registrar").

## 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 7, 2022. On July 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 9, 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 Complainant on July 11, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on July 15, 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 Respondent of the Complaint, and the proceedings commenced on July 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 9, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on August 10, 2022. Respondent sent an email communication to the Center on August 10, 2022.

The Center appointed Georges Nahitchevansky, as the sole panelist in this matter on August 17, 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

Complainant, 2U Laundry, Inc., is a provider of laundry services in the United States. In 2020, Complainant developed a franchising concept for laundry services and selected the name and mark LAUNDROLAB for Complainant's planned franchising services. Complainant filed trademark applications in the United States for LAUNDROLAB as word mark on October 1, 2020 (application No. 90-229,825), and in a logo form on November 3, 2020 (Application Serial No. 90-295,907), which both issued to registration on August 10, 2021 with a claim of first use in commerce of November 24, 2020 (Registration Nos. 6,450,554 and 6,450,606). Complainant also filed additional applications for LAUNDROLAB as a word mark or a as logo in 2021, and these issued to registration on January 25, 2022 (Registration Nos. 6,629,377 and 6,629,378).

Respondent is an individual based in North Carolina. Respondent was a former employee of Complainant from May to early October 2020. Respondent's employment with Complainant did not terminate on good terms.

Respondent registered the disputed domain name on September 29, 2020. At some point thereafter, Respondent started to use the disputed domain name as a redirect to a website at <laundromatfranchises.com> which provides general information and discussion on investing in a laundromat franchise. Currently, the disputed domain name continues to redirect to the same website.

In April 2021, Complainant through a third party contacted Respondent in an attempt to acquire the disputed domain name. Respondent advised that he would be willing to "entertain a purchase for [USD] 100,000 or a lease of [USD] 25k a year." Complainant did not accept the offer and countered with USD 5,000. No further communications between the parties appear to have occurred.

## 5. Parties' Contentions

### A. Complainant

Complainant maintains that it owns rights in the LAUNDROLAB mark by virtue of its trademark registrations for LAUNDROLAB.

Complainant argues that the disputed domain name is confusingly similar as it is identical to and solely consists of Complainant's LAUDROLAB mark.

Complainant contends that Respondent does not have a legitimate interest in the disputed domain name as Respondent has no rights in LAUNDROLAB and has simply used the disputed domain name to redirect Internet users to a third party website at <laundromatfranchises.com>.

Lastly, Complainant asserts that Respondent, a former disgruntled employee of Complainant, has registered and used the disputed domain name in bad faith. Complainant contends that Respondent attended confidential meetings where the proposed names for Complainant's new proposed laundromat franchising business were discussed and that Respondent was made aware of the adoption of LAUNDROLAB for the new business on September 28, 2020, the day before Respondent registered the disputed domain name using a privacy service.

**B. Respondent**

Respondent did not reply to Complainant's contentions. However, shortly after the Center sent a "Notification of Respondent Default" on August 10, 2022, Respondent sent an email to the Center claiming "[t]his is the 1st time I'm seeing anything like this. It looks like everything has gone to SPAM. Who do I contact about this matter?" No further communications were received from Respondent.

**6. Preliminary Issue Regarding Respondent' August 10 Email**

In his email of August 10, 2022, Respondent essentially claims that he was not aware of the dispute until he received a Notification of Respondent's default. Respondent claims that prior communications had "gone to SPAM." Notably, Respondent provides no evidence, such as a screenshot from his spam box or filter, showing as much and makes no reference to the fact that a hard-copy of the Written Notice sent by the Center was delivered on July 22, 2002 to Respondent's address in North Carolina via DHL.

Based on the foregoing (and noting the prior relationship between the Parties), the Panel finds Respondent's eleventh hour claim to lack merit. The Panel also notes that apart from failing to provide any evidentiary support for his claim, Respondent has made no request to file a Response or to otherwise appear in this proceeding. Under these circumstances, the Panel is of the view that it can proceed with issuing a decision in this matter based solely on the record submitted by Complainant and provided by the Center.

**7. Discussion and Findings**

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;

(ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and

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

**A. Identical or Confusingly Similar**

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See section 1.2.1. of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"). Complainant has provided evidence that it owns trademark registrations for the LAUNDROLAB mark.

As the first element is essentially a standing requirement, the fact that Complainant's trademark registration post-dates the registration date of the disputed domain name does not preclude a Complainant's standing to file a UDRP Complaint, nor a panel's ability of issuing a finding on the first element. *Id.* at Section 1.1.3.

In the instant proceeding, the disputed domain name is identical to Complainant's LAUNDROLAB mark as it solely consists of the LAUNDROLAB mark with the non-distinguishing generic Top-Level Domain ".com." which is typically disregarded. See *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. D2010-0842. The Panel therefore finds that Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

**B. Rights or Legitimate Interests**

Under paragraph 4(a)(ii) of the Policy, the complainant must make at least a *prima facie* showing that the respondent possesses no rights or legitimate interests in a disputed domain name. See *Malayan Banking*

*Berhad v. Beauty, Success & Truth International*, WIPO Case No. D2008-1393. Once the complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

Notwithstanding that Complainant's trademark rights in LAUNDROLAB post-date the registration of the disputed domain name, an issue that is discussed more fully below with regard to the third element, the evidence before the Panel makes it clear that Respondent is, and has been, well aware of Complainant's rights in the LAUNDROLAB mark and is seeking to profit from the disputed domain name. Respondent has used the LAUNDROLAB mark as a redirect to a competing website that provides general information on investing in a laundromat franchise, the very service that Complainant uses its LAUNDROLAB mark for. Indeed, that website makes reference, and includes a link, to Complainant's website for its LAUNDROLAB franchise opportunities at <laundrolabfranchise.com> (along with links to several other laundromat franchise opportunities offered by other companies unrelated to Complainant).

In addition, Respondent has sought to profit from the disputed domain by offering it for sale to Complainant's representative for USD 100,000 or to lease it for USD 25,000 per year. Clearly, Respondent, who has chosen not to appear in this proceeding to explain his actions, is using the disputed domain name for Respondent's personal gain.

In all, there is no evidence in the record that Respondent has ever used the disputed domain name for a legitimate or a *bona fide* offering goods or services. The Panel thus concludes that Respondent does not have a right or legitimate interest in the disputed domain name and that none of the circumstances of paragraph 4(c) of the Policy are evident in this case.

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

Under Paragraph 4(a)(iii) of the Policy, a complainant must establish the conjunctive requirement that the respondent registered and used the disputed domain name in bad faith. The assessment of whether a disputed domain name was registered in bad faith has to be assessed at the time of the registration of the disputed domain name. WIPO Overview 3.0 at section 3.8.1.

Here, at the time the disputed domain name was registered on September 29, 2020, Complainant had selected but had not commenced use of the LAUNDROLAB mark, and thus had not technically perfected its rights in the LAUNDROLAB mark for its new franchise laundromat business being developed. Complainant's first use of the LAUNDROLAB marks appears to have been on November 24, 2020 according to Complainant's trademark registrations that issued in 2021 and 2022.

Typically, where a respondent registers a domain name before the complainant's trademark rights accrue, a panel will not find bad faith on the part of a respondent. *Id.* However, there is a limited exception to the general rule in situations involving an anticipatory registration where it can be shown that a respondent registered a domain name in anticipation of and to unfairly capitalize on the nascent or yet to be developed trademark rights of another, such as by way of example registering a domain name shortly before a corporate merger or a launch of a new product or to trade on insider information. WIPO Overview 3.0 at Section 3.8.2 and cases cited therein.

Here, Complainant asserts in a sworn declaration of its CEO that Respondent was a former employee of Complainant in 2020 and was materially involved in meetings in 2020 regarding Complainant's new laundromat franchise business and the selection of the name and mark for it. In fact, according to Complainant's CEO, Respondent's mother who worked at a local law firm assisted in the name selection process. Complainant further asserts that on or about September 25, 2020 the name and mark LAUNDROLAB was selected for the new business and that on September 28, 2020 the selected name was announced at a meeting of the team working on the new laundromat franchising business. Respondent was, according to Complainant, present at the meeting. On the following day, September 29, 2020, Respondent

secretly registered the disputed domain name.

Given the above circumstances, none of which have been contested or opposed by Respondent, it appears that Respondent obtained and used insider knowledge regarding the adoption of the name and mark LAUNDROLAB for Complainant's new laundromat franchising business and then secretly registered the disputed domain name for the benefit of Respondent. As Respondent's employment with Complainant did not terminate on good terms and Respondent used the disputed domain as a redirect to a competing website and later sought to profit from selling or leasing the disputed domain, it appears more likely than not that Respondent acted opportunistically to either harm or disrupt Complainant's business or to use the disputed domain name to gain leverage over Complainant and/or to secure a payout. In sum, Respondent's anticipatory registration of the disputed domain name was done in bad faith.

Accordingly, the Panel finds that Complainant succeeds under this element of the Policy.

**8. 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 <laundrolab.com> be transferred to Complainant.

*/Georges Nahitchevansky/*
**Georges Nahitchevansky**
Sole Panelist
Date: August 31, 2022