

ADMINISTRATIVE PANEL DECISION

Mr. Liviu Tudor v. Balcangiu Irina

Case No. D2024-3763

1. The Parties

The Complainant is Mr. Liviu Tudor, Romania, represented by Baciu & Asociații Law Firm, Romania.

The Respondent is Balcangiu Irina, Romania.

2. The Domain Names and Registrar

The disputed domain names <liviu tudor-mugurisaescu.com>, <liviu tudor-mugurisaescu.info>, <liviu tudor-bancaunirea.com>, and <liviu tudorbancaunire.com> (the “Disputed Domain Names”) 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 September 16, 2024. On September 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On September 16, 2024, 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 (Domains by Proxy LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 17, 2024, 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 September 19, 2024.

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 October 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 8, 2024.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on November 19, 2024. 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 Mr. Liviu Tudor (“Mr. Tudor”) is a Romanian businessman. He is the CEO of Genesis Development, a real estate investment and development company. He is also the founder and president of the Romanian Association of Building Owners, and the President of the European Property Federation.



The Complainant owns a figurative trademark for “” (LT LIVIU TUDOR (fig.) with the Romanian Trademark Registration No. 139734 in Classes 16, 35, 41, and 42 registered on December 21, 2015 (the “Complainant’s Trademark”).

Two of the Disputed Domain Names <liviu tudor-mugurisaescu.com> and <liviu tudor-mugurisaescu.info> were registered on June 3, 2024, whereas the other two of the Disputed Domain Names <liviu tudor-bancaunirea.com> and <liviu tudorbancaunire.com> were registered on June 4, 2024, many years after the Complainant registered the Complainant’s Trademark. At the time of the filing of the Complaint and at the time of rendering this decision, the Disputed Domain Names resolve to four different websites respectively (the “Respondent’s Websites”), which feature similar content and photos regarding the Complainant and his relationship with other prominent political figures in Romania such as “Călin Georgescu” and “Klaus Iohannis”.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that:

(a) The Disputed Domain Names are similar to the Complainant’s Trademark. The Disputed Domain Names feature, in their first part, the main elements of the Complainant’s Trademark. The addition of the extra letter “u” (“liviu tudor”) in the two Disputed Domain Names <liviu tudor-bancaunirea.com> and <liviu tudorbancaunire.com> and the addition of the term “bancaunire” (which translates to “bank/unity” in English) will not obviate the close similarity between these Disputed Domain Names and the Complainant’s Trademark. Likewise, for the other two Disputed Domain Names, <liviu tudor-mugurisaescu.com> and <liviu tudor-mugurisaescu.info>, the addition of the term “mugurisaescu” i.e., the name of the Governor of the National Bank of Romania “Mugur Isarescu” will not obviate the close similarity either.

(b) The Respondent has no rights or legitimate interests in the Disputed Domain Name. The Respondent has not obtained any authorisation from the Complainant to use the Complainant’s Trademark as part of a domain name or otherwise. There is also no evidence that the Respondent is commonly known by the Disputed Domain Name or the Complainant’s Trademark. Furthermore, the Disputed Domain Name appears to be registered by the Respondent to mislead Internet users that the Respondent’s Websites originate from or are associated with the Complainant. The Respondent used the Respondent’s Websites to publish defamatory content that damages the reputation and trademark rights of the Complainant.

(c) The Respondent has registered the Disputed Domain Name and is using it in bad faith. The Respondent takes unlawful advantage of the reputation of the Complainant by registering and using the Disputed Domain Names. The fact that the Respondent is using the Disputed Domain Names for publishing allegedly defamatory content and false information about the Complainant's activity should be an indicator of bad faith. Besides, the Respondent had also registered and used other domain names that incorporated the term "Liviu Tudor" for defamatory purposes.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (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 respect of the Disputed Domain Name; and
- (iii) the Disputed Domain Name has been registered and is being used by the Respondent in bad faith.

Consolidation

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In this case, the Registrar confirmed that the registrant of all four of the Disputed Domain Names is the Respondent. Accordingly, the Panel decides to consolidate the disputes regarding the different Disputed Domain Names in a single proceeding.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has shown rights in respect of the Complainant's Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

A major part of the Complainant's Trademark "LIVIU TUDOR", or a typo-variant of "LIVIU TUDOR", is reproduced within the Disputed Domain Names. Two of the Disputed Domain Names, <liviu tudor-bancaunirea.com> and <liviu tudorbancaunire.com>, incorporate a major part of the Complainant's Trademark "LIVIU TUDOR" with the addition of the letter "u" in "tudor". The intentional misspelling of the word "LIVIU TUDOR" does not alter the fact that the two Disputed Domain Names are confusingly similar to the Complainant's Trademark. [WIPO Overview 3.0](#), section 1.9. The Panel finds the Complainant's Trademark is recognizable within each of these two Disputed Domain Names. Furthermore, it is well established that the generic Top-Level Domains ".com" and ".info" in the Disputed Domain Names, may be disregarded for the purposes of assessing confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.11.1.

Although the addition of other terms, in this case “mugurisaescu”, “bancaunirea” and “bancaunire”, may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the Disputed Domain Names and the Complainant’s Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests & Registered and Used in Bad Faith

Under [WIPO Overview 3.0](#) section 2.6.3, where the domain name is not identical to the complainant’s trademark, but it comprises the mark plus a derogatory term, panels tend to find that the respondent would have a legitimate interest in using the trademark as part of the domain name of a criticism site if such use is prima facie noncommercial, genuinely fair, and not misleading or false.

In the present case, the Panel notes that although the terms “mugurisaescu”, “bancaunirea” and “bancaunire” that are incorporated in the relevant Disputed Domain Names appear to be neutral or even prone to create an association with the Complainant, if they are considered alongside the content in the Respondent’s Websites, they may be relevant to the criticism made in those websites.

More importantly, the Panel notes that the Respondent’s Websites contain various accusations, including the Complainant’s alleged relationships with certain prominent figures in Romania, as well as the Complainant’s alleged activities in the political field. In view of the content on the Respondent’s Websites, the Panel finds it difficult to determine whether the use of the Disputed Domain Names and the Respondent’s Websites is prima facie “genuinely fair, and not misleading or false”. The Panel is not in a position to verify or to determine the nature of the content in the Respondent’s Websites, which was alleged by the Complainant as being defamatory and false. The Panel is of the view that this would require a fuller evidentiary record and is therefore unable to come to a conclusion.

Whether they are false, as the Complainant suggests, they are clearly critical, and do not appear to be a pretext for cybersquatting.

The Panel would like to distinguish the present case from the case cited by the Complainant i.e. *Mr. Liviu Tudor v. Balcangiu Irina, Home*, WIPO Case No. [D2023-2629](#) (hereinafter referred to as “D2023-2629”) in relation to the disputed domain names <liviu-tudor.com> and <liviu-tudor.info>, which also involved the Complainant and the Respondent as the same complainant and respondent respectively.

In D2023-2629, the panel decided that the second element of paragraph 4(a) of the Policy had been established and ordered that the disputed domain names be transferred to the complainant. In particular, the panel noted that although the UDRP recognizes noncommercial free speech could be seen as fair use and support a respondent’s claim to legitimate interest under the Policy, a general right to legitimate criticism does not necessarily extend to registering or using a domain name identical to a trademark. Section 2.6.2 of the [WIPO Overview 3.0](#) further provides that panels tend to find that registering or using a domain name identical to a trademark creates an impermissible risk of user confusion through impersonation.

As such, the Panel considers that the present case should be distinguished from D2023-2629, as the Panel in D2023-2629 made the conclusion that the respondent lacks rights or legitimate interests in the disputed domain names on basis that, inter alia, the disputed domain names are identical to the complainant’s trademark. In the present case, the Disputed Domain Names are confusingly similar but not identical to the Complainant’s Trademark (see the Panel’s analysis under the first element of the Policy above). The Panel considers that the present case should not be considered as analogous to the case in D2023-2629.

The Panel also notes that this case exceeds the relatively limited “cybersquatting” scope of the UDRP, and would be more appropriately addressed by a court of competent jurisdiction (see section 4.14.6 of the [WIPO Overview 3.0](#)).

Past UDRP panels, their governing instruments, and legislative background, are all clear that the Policy was designed to prevent extortionate or abusive behavior also known as “cybersquatting” and cannot be used to litigate all disputes involving domain names. See *Philippe Dagenais designer inc. / Philippe Dagenais v. Groupe Dagenais MDC inc. (formerly Philippe Dagenais Mobilier Décoration Conseils Inc.) / Mobilier Philippe Dagenais*, WIPO Case No. [D2012-0336](#); *Bugatti International S.A. v. Jacques Pensini, Point Office / Philippe Schriqui*, WIPO Case No. [D2022-2805](#); *Les Editions Jalou v. Sidharth Saigal and Chalk Media FZE*, WIPO Case No. [D2023-1430](#); and *Anniversary University, LLC v. The History Factory*, WIPO Case No. [D2023-2180](#). A panel may decide that the administrative proceeding is not an appropriate forum to evaluate certain contentions of the parties, while it has not been provided the full set of facts (or authority) necessary to make that determination. See *Pinnacle Intellectual Property v. World Wide Exports*, WIPO Case No. [D2005-1211](#).

The Panel is not in a position to make findings on the factual and legal questions discussed above, which would require a far more complete evidentiary record than what has been provided by the Parties.

As such, the Panel will not rule on the second and third element of the Policy.

7. Decision

For the foregoing reasons, the Complaint is denied. That said, the Panel notes that this decision does not prevent either Party from further pursuing this dispute in a court of competent jurisdiction.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: December 6, 2024