

## **ADMINISTRATIVE PANEL DECISION RELATED TO THE REQUEST TO CHANGE THE LANGUAGE OF THE ADR PROCEEDING**

Luigi Lavazza S.p.A. v. IONESCU RADU, TEKINSPO RTS SRL  
Case No. DEUL2024-0004

### **1. The Parties**

The Complainant is Luigi Lavazza S.p.A., of Italy, represented by Studio Barbero S.p.A., Italy.

The Respondent is IONESCU RADU, TEKINSPO RTS SRL, of Romania.

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

The disputed domain name is <lavazzacoffee.eu>.

The Registry of the disputed domain name is the European Registry for Internet Domains (“EURid” or the “Registry”). The Registrar of the disputed domain name is CLAUS WEB srl.

### **3. Procedural History**

The Request to Change the Language of the ADR Proceeding (the “Request”) was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) pursuant to the .eu Alternative Dispute Resolution Rules (the “ADR Rules”), Paragraph A(3)(b), on October 11, 2024. On October 14, 2024, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On October 16, 2024, the Registry transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

In accordance with the ADR Rules, Paragraph A(3)(b)(3), the Center formally notified the Respondent of the Request in English and in Romanian, and the proceedings commenced on October 24, 2024. In accordance with the ADR Rules, Paragraph A(3)(b)(4), the due date for Response was November 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 6, 2024.

The Center appointed Marilena Comanescu as the sole panelist in this matter on November 8, 2024 in accordance with the ADR Rules, Paragraph A(3)(b)(4). 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 ADR Rules, Paragraph B(5).

#### **4. Factual Background**

The disputed domain name was registered on December 24, 2023, and the language of the registration agreement is Romanian.

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

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

The Complainant requests a change of the language of the ADR Proceeding in accordance with Paragraph A(3)(a) of the ADR Rules from Romanian into English and asserts that it has established circumstances that justify the acceptance of such Request. The Complainant has argued a number of circumstances supporting English as the language of the ADR proceeding, and that if it was required to file its Complaint in Romanian this would unfairly disadvantage and create a financial burden on the Complainant just as it would delay the proceedings and adjudication of the matter.

The main reasons provided by the Complainant are the following:

- the Complainant communicates in English and would be prejudiced, should it be required to translate the Complaint and participate in this proceeding in Romanian, this would also cause delays in conducting the present proceedings;
- considering that the disputed domain name is inherently misleading since it combines the Complainant's LAVAZZA trademark and the word "coffee", which is descriptive of the Complainant's core business, and, requiring the Complainant to translate the Complaint and all the case related documents into Romanian, would cause delay in the adjudication of the matter and would unfairly disadvantage and create a financial burden on the Complainant;
- the disputed domain name encompasses the English word "coffee"; and
- the Respondent demonstrated to have command of English during the recovery activities pursued by the Complainant's representative prior of the filing of the Request. In fact, the Respondent communicated in English with the web agency entrusted by the Complainant - which contacted it to acquire additional information as to its intentions about the disputed domain name. Such exchange of communications, provided as Annex 2 to Request, shows the Respondent's familiarity with English and its ability to communicate in said language.

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

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

#### **6. Discussion and Findings**

In accordance with Paragraph A(3)(a) of the ADR Rules, "unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the ADR Proceeding shall be the language of the Registration Agreement for the disputed domain name. In the absence of an agreement between the Parties, the Panel may in its sole discretion, having regard to the circumstances of the ADR Proceeding, decide on the written request of a complainant that the language of the ADR Proceeding will be different than the language of the Registration Agreement for the disputed domain name."

Paragraph B(7) of the ADR Rules vests a panel with authority to conduct the proceedings 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.

In the case at hand, the language of the Registration Agreement of the disputed domain name is Romanian. The Complainant submitted a request to change the language of the ADR proceeding from Romanian to English. The Respondent did not submit any comment about the language of the proceeding after receipt of the Center's notification of the Complainant's request to change the language from Romanian to English.

The Panel notes that, based on the documents and evidence provided by the Complainant - which have not been challenged by the Respondent -, the Respondent appears to be able to understand English and to communicate in such language. Indeed, according to the exchange of correspondence submitted as Annex 2 to the Request, the Respondent replied to an email sent by the Complainant's representative (masked as a web agency claiming they are working on a project to be further presented to the Complainant) and further follow up correspondence in English, without raising any issue as to the language adopted in such correspondence. Therefore, the Panel finds that the Respondent would not be disadvantaged by adopting English as language of the ADR proceeding.

Further, the Panel notes that following circumstances: (i) the disputed domain name consists of an English word "coffee", added to the Complainant's trademark, and none of these terms correspond to a Romanian dictionary term; (ii) the Complainant and its representative are Italian companies. Accordingly, neither the Complainant nor its representative are able to understand and to communicate in Romanian; (iii) English is the primary language for international relations; and (iv) the principle of equity of the parties and expedited proceedings excluding the unnecessary burden of the Complainant ordering translations, and also causing unduly delay to the proceedings.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

## **7. Decision**

For the foregoing reasons, in accordance with Paragraph A(3)(b)(6) of the ADR Rules, the Panel orders that the language of the ADR proceeding shall be English and any future submission by the Parties (including the submission of a new Complaint) regarding the disputed domain name <lavazzacoffee.eu> shall be made in the language of the ADR Proceeding in accordance with paragraph A(3)(c) of the ADR Rules.

This Panel's decision shall be final and not subject to appeal.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: November 18, 2024