

ADMINISTRATIVE PANEL DECISION

The Lincoln Electric Company v. Domain Administrator, Fundacion Privacy Services LTD

Case No. D2022-0525

1. The Parties

The Complainant is The Lincoln Electric Company, United States of America (“United States”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Domain Administrator, Fundacion Privacy Services LTD, Panama.

2. The Domain Names and Registrar

The disputed domain names <licolnelectric.com> and <lincolnelectic.com> are registered with Media Elite Holdings Limited dba Register Matrix (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 15, 2022. On February 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On February 22, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 February 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 18, 2022.

The Center appointed Ada L. Redondo Aguilera as the sole panelist in this matter on March 23, 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 Lincoln Electric Company and Lincoln Global, Inc. (collectively known as “the Complainant”) are sister companies owned by Lincoln Electric Holdings Inc. and are the owners of trademark registrations across various jurisdictions.

Founded in 1895, the Complainant’s business began as a result of the vision of its founder John C. Lincoln and his brother, James F. Lincoln. John C. started the company with a humble capital investment of USD 200 selling electric motors of his own design. James F. joined the company later as a salesman and the company’s product line expanded to include battery chargers for electric automobiles. In 1911, Lincoln Electric introduced the first variable voltage, single operator, portable welding machine in the world. The company continued to expand in the United States, and in 1936 started to expand globally when it established The Lincoln Electric Company Pty Ltd in Australia. In 2008, U.S. president George W. Bush visited the Complainant’s world headquarters in Euclid, Ohio, toured the manufacturing campus and praised the company’s employees for their global competitiveness.

Today, the Complainant has become the world leader in the design, development and manufacture of arc welding products, robotic arc welding systems, plasma and oxy-fuel cutting equipment and has a leading global position in the brazing and soldering alloys market. Known as the Welding Experts, the Complainant’s solutions are used across diverse industry sectors in over 160 countries. In 2021, Lincoln Electric is named one of the “World’s Most Ethical Companies” by the Ethisphere Institute, for the 4th consecutive year.

The Complainant is headquartered in Cleveland, Ohio, and also has 60 manufacturing locations, including operations and joint ventures in 19 countries and a worldwide network of distributors and sales offices covering more than 160 countries. The Complainant employs over 11,000 employees worldwide. In 2020, the Complainant reported sales of over USD 2.6 billion.

The Complainant is the owner of the following trademarks:

Trademark	Jurisdiction/ TM office	Registration number	Registration Date	Class
LINCOLN ELECTRIC	IN/IPI	1254807	December 11, 2003	35
LINCOLN ELECTRIC	IN/ IPI	1441494	March 30, 2006	35, 9
LINCOLN ELECTRIC	US / USPTO	2350082	May 16, 2000	9
LINCOLN ELECTRIC	US / USPTO	2420805	January 16, 2001	35
LINCOLN ELECTRIC	EM / EUIPO	004725941	November 27, 2006	6, 9 35
LINCOLN ELECTRIC	CA / CIPO	TMA574202	January 22, 2003	7

The Complainant has a large Internet presence and is the owner of over 700 domain names which incorporate the LINCOLN ELECTRIC trademark (the “Trademark”), and other trademarks, including its primary domain name <lincolnelectric.com>.

According to Similarweb.com, the Complainant’s website at its primary domain name has received over 490,000 visitors during the period of November 2020 to April 2021, and is ranked 26,016 in the United States and 92,921 globally.

In addition to its many domain names and website at “www.lincolnelectric.com”, the Complainant has a strong social media presence through the use of its Facebook, Twitter and YouTube pages. Its Facebook page has over 1.02 million “likes” while its Twitter page has over 35,300 followers and its YouTube page has over 65,100 subscribers.

According to the Whois records, the disputed domain names were registered on July 29, 2004 and January 30, 2005, respectively.

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain names are confusingly similar to the Trademark. Also, the Complainant argues that the Respondent has no rights or legitimate interests with respect to the disputed domain names and finally that the Respondent registered and is using the disputed domain names in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has established their right of the Trademark. The test that a panel must do in order to established if a disputed domain name is confusingly similar with a trademark involves the comparison between the trademark and the disputed domain name.

In this case, the disputed domain names consist of a misspelling of the Trademark.

In case of the domain name <licolnelectric.com> there is absence of the letter "n", and in the domain name <lincolnelectric.com> there is absence of the letter "r".

It is well established that domain names which consist of a common, obvious, or intentional misspelling of a trademark are considered to be confusingly similar to the relevant mark for the purposes of the first element. In the present case, we begin with the fact that the domain names contain sufficiently recognizable aspects of the relevant mark (see section 1.9.1 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). This is a typical typosquatting case as the disputed domain names are clearly a misspelling of the Trademark.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

C. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a disputed domain name by demonstrating any of the following:

- (i) before any notice to it of the dispute, the respondent'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 respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the respondent 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.

Even though the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established that, as it is put in section 2.1 of [WIPO Overview 3.0](#) that a complainant is required to make out a *prima facie* case that the respondent lacks rights or

legitimate interests. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant allegations and evidence demonstrating rights or legitimate interests in the domain name. If the respondent does come forward with arguments or evidence proving their rights or legitimate interests, the panel weighs all the evidence, with the burden of proof always remaining on the complainant.

The Complainant contends that the Respondent is not referred to or commonly known by the disputed domain names or the Trademark. The Respondent has not been authorized by the Complainant to register or use the trademark in any way including the disputed domain names. The websites that are displayed on both of the disputed domain names do not show any *bona fide* offering of goods or services. The websites are a pay-per-click site which redirect Internet users to third party commercial websites which are competitors of the Complainant. This does not confer any rights or legitimate interests.

The Respondent had the opportunity to demonstrate its rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the *prima facie* case established by the Complainant has not been refuted by the Respondent.

Therefore, the Panel finds that the Complainant has established that the Respondent has no rights or legitimate interests in the disputed domain names. In light of the above, the Complainant has complied with the second element of the Policy. Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

D. Registered and Used in Bad Faith

To prevail under the Policy, the Complainant must show that the disputed domain names have been registered and are being used in bad faith. It is a double requirement.

The Panel is satisfied that the Respondent must have been aware of the Trademark when it registered the disputed domain names particularly since the Trademark has no other meaning other than its significance as a trademark belonging to the Complainant and the disputed domain names are a clear misspelling of the Trademark.

Further the use of the disputed domain names is also in bad faith. Firstly, there is a presumption of bad faith in the registration and use of a domain name in typosquatting cases. This was the opinion of the panel in *TPI Holdings, Inc. v. LaPorte Holdings*, WIPO Case No. [D2006-0235](#), “typosquatting – intentionally adding or deleting a letter or two, or transposing letters in, a valid mark of another in one’s domain name – is presumptive evidence of bad faith in registration and use of a disputed domain name”.

The Respondent’s use of the websites also supports a finding that both of the disputed domain names are being used in bad faith. The websites displayed in both disputed domain names are a pay-per-click site which has been set up to the commercial benefit of the Respondent and which directs Internet users to other sites. It is highly likely that Internet users when typing the disputed domain names will believe that the disputed domain names are official or related in some way to the Complainant.

The disputed domain names are likely to confuse Internet users trying to find the Complainant’s official website. Such confusion will inevitably result due to the misspelling of the Trademark in the disputed domain names, with a clear intention on the part of the Respondent to attract for commercial gain by confusing and misleading Internet users into believing that the website is authorized or endorsed by the Complainant.

The Panel therefore also concludes that the disputed domain names were registered and are being used in bad faith under paragraph 4(b)(iv) 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 <licolnelectric.com> and <lincolnelectic.com> be transferred to the Complainant.

/Ada L. Redondo Aguilera/

Ada L. Redondo Aguilera

Sole Panelist

Date: April 6, 2022