

ADMINISTRATIVE PANEL DECISION

Lincoln Global, Inc., The Lincoln Electric Company v. Domain Admin,
TotalDomain Privacy Ltd
Case No. D2022-0545

1. The Parties

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

The Respondent is Domain Admin, TotalDomain Privacy Ltd, Panama.

2. The Domain Name and Registrar

The disputed domain name <lincoelectric.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 16, 2022. On February 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 19, 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 the Complainant on February 21, 2022 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 February 23, 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 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 websites, 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 database, the disputed domain <lincoelectric.com> name was registered on September 8, 2004.

5. Parties’ Contentions

A. Complainant

The Complainant argues that the disputed domain name is confusingly similar to the Trademark. Also, the Complainant argues that the Respondent has no rights or legitimate interests with respect to the disputed domain name and finally that the Respondent registered and is using the disputed domain name 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 of the ownership of the trademark due to the fact that the Complainant has established that it has registered the trademark rights to the Trademark. In order to establish similarity, the panel must do a test that involves the comparison between the trademark and the domain name itself to establish if the domain name is identical or confusingly similar to the complainant’s trademark. The trademark would generally have to be recognizable within the domain name.

In this case, the disputed domain name is <lincoelectric.com>, which consists of a misspelling of the Trademark by the omission of the “n”.

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. This stems from the fact that the domain name contains 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](#). Here, this is a typical typosquatting case, as the disputed domain name is clearly a misspelling of the Trademark.

For the purposes of assessing identity and confusing similarity under paragraph 4(a)(i) of the Policy, it is permissible for the Panel to ignore the Top-Level Domain (“TLD”), irrespective of the particular TLD and the ordinary meaning ascribed to a particular TLD. It is viewed as a standard registration requirement.

Accordingly, the [WIPO Overview 3.0](#) at 1.9 states that: “A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.” The disputed domain name must be considered confusingly similar to the Trademark in that it is similar to such trademark in both sight and sound. In other words, as written, the disputed domain name is phonetically similar to the Trademark in terms of pronunciation.

For all the foregoing reasons, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy therefore are fulfilled.

B. 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.

Although 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 the [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 or evidence demonstrating rights or legitimate interests in the domain name. If the respondent does come forward with evidence of relevant 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 name or the Trademark. It has not authorized the Respondent to use the Trademark in any way including a domain name. The website to which the disputed domain name resolves to (the "Website") does not show any *bona fide* offering of goods or services. The Website is a pay-per-click site which redirects Internet users to third-party commercial websites which are competitors of the Complainant. Further there is a public offer of the disputed domain name, which does not confer rights or legitimate interests in the disputed domain name. The Respondent is also not making any legitimate noncommercial or fair use of the disputed domain name.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded, and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name.

For the foregoing reasons the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

In order to prevail under the Policy, the Complainant must show that the disputed domain name has been registered and is being used in bad faith.

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

Section 3.2.2 of the [WIPO Overview 3.0](#) states as follows: "Noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant's mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant's mark. Further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent's claim not to have been aware of the complainant's mark."

The fact that there is a clear absence of rights or legitimate interests, coupled with no explanation for the Respondent's choice of the disputed domain name, is also a significant factor to consider (as stated in section 3.2.1 of [WIPO Overview 3.0](#)). Therefore, the Panel finds that registration is in bad faith.

Further, the use of the disputed domain name 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. As stated 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 Website also supports a finding that the disputed domain name is being used in bad faith. The Website is a pay-per-click site which has been set up to the commercial benefit of the Respondent and which directs Internet users to competitors of the Complainant. It is highly likely that web users, when typing the disputed domain name into their browser or finding it through a search engine, would have been looking for a site operated by the Complainant rather than the Respondent.

In addition to the above, the Respondent is currently offering to sell the disputed domain name, which constitutes bad faith under Policy 4(b)(i) due to the fact that, at the time of this decision, the Panel visited the website displayed in the disputed domain name and has confirmed an intent to sell, rent, or otherwise transfer the disputed domain name for valuable consideration in excess of its out-of-pocket expenses, due to the fact that is a public offer of the disputed domain name. It is well established that seeking to profit from the sale of a confusingly similar domain name that incorporates a third party's trademark demonstrates bad faith. The panel in *Groupe Auchan v. Bui Tan Dat / Domain ID Shield Service Co., Limited*, WIPO Case No. [D2014-1935](#) established that: "The Panel cannot find any justification for the registration and use of the disputed domain name in such circumstances except to find that the Respondent registered and is using the disputed domain name for the purpose of selling the disputed domain name for valuable consideration in excess of the Respondent's documented out-of-pocket costs and/or to disrupt the Complainant's business."

The disputed domain name is likely to confuse Internet users trying to find the Complainant's official website. Such confusion will be the result of the misspelling of the Trademark in the disputed domain name. That is the reason why the Panel finds that the intention on the part of the Respondent is 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 name was registered and is 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 name <lincoelectric.com> be transferred to the Complainant.

/Ada L. Redondo Aguilera/

Ada L. Redondo Aguilera

Sole Panelist

Date: April 6, 2022