

## **ADMINISTRATIVE PANEL DECISION**

LinkedIn Corporation v. Morgan Zolko  
Case No. D2024-0573

### **1. The Parties**

Complainant is LinkedIn Corporation, United States of America, represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States of America.

Respondent is Morgan Zolko, United States of America.

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

The disputed domain name <linkedinpremium.com> is registered with GoDaddy.com, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 8, 2024. On February 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 8, 2024, 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 (Registration Private / Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on February 9, 2024 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on February 9, 2024.

The Center verified that the Complaint together with the amendment to 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 Respondent of the Complaint, and the proceedings commenced on February 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 4, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on March 5, 2024.

Respondent sent an email communication to the Center on March 5, 2024, indicating Respondent's willingness to transfer ownership of the disputed domain name and indicating that it had taken down the

website to which it resolved. The Center sent this possible settlement email to the Parties on March 8, 2024, indicating that if the parties wanted to explore a settlement, Complainant should submit a request for suspension by March 15, 2024. No suspension of the Proceedings was requested by Complainant.

The Center appointed Timothy Casey the sole panelist in this matter on April 4, 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.

Following the panelist appointment, Respondent sent a subsequent email communication to the Center on April 20, 2024, emphasizing Respondent's willingness to transfer ownership of the disputed domain name.

#### 4. Factual Background

Complainant is a publicly traded (New York Stock Exchange) company that provides a software-driven professional network connecting more than 1 billion members in more than 200 countries and regions. Complainant was founded in 2003 and currently employs 19,400 people in 36 offices around the world. Complainant operates a number of domain names, including <linkedin.com>, which it registered in 2002, and offers a "LinkedIn Premium" service that includes a number of exclusive features to members.

Complainant has registrations for numerous trademarks around the world for "LINKEDIN" (the "LINKEDIN Marks"), including the following:

Mark	Jurisdiction	Class(es)	Registration No.	Registration Date
LINKEDIN	United States of America	35	3074241	March 28, 2006
LINKEDIN	United States of America	45	4007079	August 2, 2011
LINKEDIN	EUIPO	35	4183893	July 24, 2006

Complainant also has numerous registrations on its logo. The disputed domain name was registered on November 24, 2023. At the time of filing the Complaint, the disputed domain name resolved to a website displaying Complainant's logo and offering to sell discount "promo codes" for Complainant's LinkedIn Premium service.

#### 5. Parties' Contentions

##### A. Complainant

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

Notably, Complainant contends it has rights in the LINKEDIN Marks as evidenced by the facts above and by the findings of prior panels, including *LinkedIn Corporation v. Private Registration*, WIPO Case No. [D2015-1678](#). Complainant contends the disputed domain name, disregarding the Top-Level Domain, is identical or confusingly similar to the LINKEDIN Marks because it contains the LINKEDIN Marks in their entirety, and the additional word "premium" does nothing to reduce the confusing similarity.

Complainant contends that Respondent has no rights or legitimate interests in the disputed domain name and that Complainant has never assigned, granted, licensed, sold, transferred, or otherwise authorized Respondent's registration of the same. Complainant further contends that Respondent has never used or made preparations to use the disputed domain name in connection with a bona fide offering of goods or services. Rather, Complainant alleges Respondent is using the disputed domain name in connection with a website that falsely appears to be a website for, or associated with, Complainant, by using Complainant's logo and offering for sale fake promo codes for discounts off Complainant's LinkedIn Premium service, which is not a bona fide offering. Complainant also contends that Respondent has never been commonly known by the disputed domain name and has no rights or legitimate interests therein. Respondent's usage of the

disputed domain name is not a legitimate noncommercial or fair use without intent for commercial gain because Respondent is charging money for the fake promo codes and the usage misleadingly diverts consumers or tarnishes Complainant's rights in the LINKEDIN Marks.

Complainant contends the disputed domain name was registered and has been used in bad faith by Respondent. Given the global reach of Complainant's services associated with the LINKEDIN Marks and Complainant's established rights in the LINKEDIN Marks years prior to registration of the disputed domain name indicate that Respondent only registered the disputed domain name to attract Internet users for potential gain based on their confusion. Further, Respondent's effort to sell fake promo codes on its website, in order to attract, for commercial gain, Internet users to Respondent's website by creating a likelihood of confusion, is evidence of bad faith.

## **B. Respondent**

Respondent did not reply to Complainant's contentions within the prescribed period but contents that Respondent "fully excepts the removal of the domain from my ownership."

## **6. Discussion and Findings**

### **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 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.

Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "premium," may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark 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**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted

Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity here, the claimed sale of counterfeit codes and impersonation/passing off can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that Respondent has used the disputed domain name to both disrupt the business of Complainant and intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the LINKEDIN Marks.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity here, claimed sale of counterfeit codes and impersonation/passing off constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that Complainant has established the third element of the Policy.

## **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, and in accordance with Respondent's preference, the Panel orders that the disputed domain name <linkedinpremium.com> be transferred to Complainant.

*/Timothy D. Casey/*

**Timothy D. Casey**

Sole Panelist

Date: April 19, 2024