

ADMINISTRATIVE PANEL DECISION

Lincoln Global, Inc., The Lincoln Electric Company v. My Store, Admin,
Lincoln Electric
Case No. D2024-1812

1. The Parties

The Complainants are Lincoln Global, Inc., United States of America, and The Lincoln Electric Company, United States of America (“U.S.”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is My Store, Admin, Lincoln Electric, India.

2. The Domain Name and Registrar

The disputed domain name <lincolnelektrik.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 30, 2024. On April 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Contact Privacy Inc. Customer 0170561887) and contact information in the Complaint. The Center sent an email communication to the Complainants on May 1, 2024, providing the registrant and contact information disclosed by the Registrar and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on May 3, 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 May 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 27, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 29, 2024.

The Center appointed Tobias Zuberbühler as the sole panelist in this matter on June 5, 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 Complainants (collectively known as “Lincoln Electric”) are sister companies owned by Lincoln Electric Holdings Inc. and owners of trademark registrations across various jurisdictions. Lincoln Electric was founded in the U.S. in 1895 and is specialized in the design, development and manufacture of arc welding products. Lincoln Electric has over 12,000 employees worldwide, and its products are used in over 160 countries.

Among others, the Complainants are the registrant/current owner of various LINCOLN ELECTRIC trademarks, including the European Union Reg. No. 004725941 (registered on November 27, 2006) and U.S. Reg. No. 2350082 (registered on May 16, 2000).

The disputed domain name was registered by the Respondent on March 11, 2024, and, at the time of filing of the Complaint, resolved to a website featuring the Complainants’ logo and purporting to sell the Complainants’ products.

5. Parties’ Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

B. Respondent

The Respondent has not submitted any reply to the Complainants’ contentions.

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 the Complainants’ trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

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

A domain name is “identical or confusingly similar” to a trademark for the purposes of the Policy when the domain name includes the trademark, or a confusingly similar approximation, regardless of other terms in the domain name (*Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)). This includes the replacement of the final letter “c” in the Complainants’ trademark by the letter “k”, which is considered a common, obvious, or intentional misspelling of a trademark (i.e., “typosquatting”). See [WIPO Overview 3.0](#), section 1.9.

The Panel finds that 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 that the Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants’ prima facie showing and has not come forward with any evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise. The Panel also notes that the subtle misspelling of the Complainants’ trademark in the disputed domain name together with the website at the disputed domain name create a risk of implied affiliation.

The Panel finds that 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.

Under the circumstances of this case, including the subtle misspelling of the Complainants’ trademark in the disputed domain name, it can be inferred that the Respondent was aware of the Complainants’ trademark when registering the disputed domain name.

The evidence and allegations submitted by the Complainants support a finding that the Respondent was engaged in an attempt to attract Internet users to its website for its own commercial gain by creating a likelihood of confusion with the Complainants’ trademark as to the source, sponsorship, affiliation, or endorsement of the website. The Respondent therefore used the disputed domain name in bad faith (see *Claudie Pierlot v. Yinglong Ma*, WIPO Case No. [D2018-2466](#)).

The Panel finds that the Complainants have 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, the Panel orders that the disputed domain name <lincolneletrik.com> be transferred to the Complainants.

/Tobias Zuberbühler/
Tobias Zuberbühler
Sole Panelist
Date: June 19, 2024