

## **ADMINISTRATIVE PANEL DECISION**

Lincoln Global, Inc., The Lincoln Electric Company v. Carolina Rodrigues,  
Fundacion Comercio Electronico  
Case No. D2024-2241

### **1. The Parties**

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

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

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

The disputed domain name <lincolnelectrics.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 May 31, 2024. On June 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 5, 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 the Complainants on June 6, 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 June 10, 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 June 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 8, 2024.

The Center appointed Christiane Féral-Schuhl as the sole panelist in this matter on July 16, 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 are sister companies owned by Lincoln Electric Holdings Inc. The Complainants and companies of the group to which they belong (the “Complainants’ Group”) have become the world leader in the design, development, and manufacture of arc welding products, robotic arc welding systems, plasma and oxyfuel cutting equipment, and has a leading global position in the brazing and soldering alloys market.

Founded in 1895 and headquartered in Cleveland, Ohio, the Complainants’ Group operates 71 manufacturing and automation system integration locations across 21 countries and maintains a worldwide network of distributors and sales offices serving customers in over 160 countries.

The Complainants own several registered trademarks incorporating the words “LINCOLN ELECTRIC” (the “LINCOLN ELECTRIC Trademarks”):

- the US wordmark LINCOLN ELECTRIC No. 2350082, registered on May 16, 2000, for products and services in class 9 and regularly renewed;
- the US wordmark LINCOLN ELECTRIC No. 2420805, registered on January 16, 2001, for products and services in class 35 and regularly renewed;
- the US wordmark LINCOLN ELECTRIC No. 3114157, registered on July 11, 2006, for products and services in class 6 and regularly renewed;
- the Canadian wordmark LINCOLN ELECTRIC No. TMA573494, registered on January 13, 2003, for products and services in class 1 and regularly renewed;
- the Canadian wordmark LINCOLN ELECTRIC No. TMA574202, registered on January 22, 2003, for products and services in classes 7 and 9 and regularly renewed;
- the European wordmark LINCOLN ELECTRIC No. 004725941, registered on November 27, 2006, for products and services in classes 6, 9, and 35 and regularly renewed.

The Complainants’ Group also owns over 700 domain names which incorporate the LINCOLN ELECTRIC Trademarks, including its primary domain name <lincolnelectric.com>, registered on February 24, 1996.

The disputed domain name was registered on February 6, 2024, and resolved to a website featuring pay-per-click (“PPC”) links to third party websites with active MX records. The Respondent offered to sell the disputed domain name with a minimum offer of 1,299 USD. The Complainants issued an unsuccessful cease-and-desist to the Respondent.

#### **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.

Notably, the Complainants contend that the disputed domain name is confusingly similar to trademarks in which they have rights. The Complainants note that the applicable Top-Level Domain ("TLD") in a domain name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. They point out that the disputed domain name differs from their LINCOLN ELECTRIC Trademarks by just one letter and that the addition of the sole letter "s" at the end of the disputed domain name does not alter the fact that the disputed domain name is confusingly similar to the Complainants' trademarks. The Complainants submit that the disputed domain name must be considered a prototypical example of typosquatting.

Then, the Complainants claim that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainants argue that the Respondent is not sponsored by or affiliated with the Complainants in any way and that they have not given the Respondent permission to use the LINCOLN ELECTRIC Trademarks in any manner, including in domain names. The Complainants also submit that there is no evidence that the Respondent is commonly known by the disputed domain name. Furthermore, the Complainants add that the Respondent is not using the disputed domain name to provide a bona fide offering of goods or services, considering that the disputed domain name resolves to a website featuring PPC links, including links that directly reference the Complainants and their business. The Complainants also contend that the fact that the disputed domain name is being offered for sale serves as further evidence of the Respondent's lack of rights or legitimate interests. Furthermore, the Complainants submit that the disputed domain name has been set up by the Respondent with MX records, enabling email communication, and that the Respondent is likely to use or intends to use the email addresses to confuse Internet users into believing they are dealing with the Complainants when they are not, which cannot be considered as a bona fide offering of goods or services, nor a legitimate noncommercial or fair use.

Finally, the Complainants assert that the disputed domain name was registered and is used in bad faith by the Respondent. The Complainants argue that by registering a domain name that incorporates the LINCOLN ELECTRIC Trademarks in their entirety, adding only the letter "s", the Respondent has demonstrated a knowledge of, and familiarity with, the Complainants' brand and business. The Complainants submit that typosquatting itself has been taken as evidence of bad faith registration and use by past panels. The Complainants consider that, by creating this likelihood of confusion between the Complainants' trademarks and the disputed domain name, leading to misperceptions as to the source, sponsorship, affiliation, or endorsement of the disputed domain name, the Respondent has demonstrated a nefarious intent to capitalize on the fame and goodwill of the Complainants' trademarks in order to increase traffic to the disputed domain name's website for the Respondent's own pecuniary gain, as evidenced by the presence of multiple PPC links posted to the Respondent's website, some of which directly reference the Complainants. In addition, the Respondent is currently offering to sell the disputed domain name for valuable consideration in excess of his out-of-pocket expenses, which constitutes bad faith under Policy. Furthermore, the Complainants contend that the existence of active MX records attached to the disputed domain name, creates an ongoing implied threat to the Complainants that the disputed domain name may be used for fraudulent activities, which further supports an inference of bad faith. The Complainants also point out that the Respondent has previously been involved in several previous cases, which provides evidence of the pattern of cybersquatting in which the Respondent is engaging. Finally, on balance of the facts set forth above, the Complainants claim that it is more likely than not that the Respondent knew of and targeted the Complainants' trademarks, and that the Respondent should be found to have registered and used the disputed domain name in bad faith.

## **B. Respondent**

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

## 6. Discussion and Findings

### A- Procedural Issue: Consolidation of Multiple Complainants

The Complaint was filed by two Complainants, who allege that they are sister companies.

According to section 4.11.1 of the [WIPO Overview 3.0](#), “In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation”. It is well accepted that a single complaint may be brought under the Policy by multiple complainants where the multiple complainants have a common grievance against the respondent and one example of a common grievance entitling consolidation of complainants is where the complainants share an interest in trademarks allegedly affected by the respondent’s registration of the disputed domain name.

In this case, as the Complainants are sister companies, the Panel is of the view that a common legal interest is present. Also, the Complainants are represented by a single representative and the same remedy is sought by all Complainants. Moreover, the Respondent has not objected to the Complainants’ consolidation request. Under the circumstances of the case, the Panel accepts that consolidation is procedurally efficient, fair, and equitable to all Parties, and will accept the two Complainants as one party in the proceeding.

#### 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 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.

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.

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

Regarding the disputed domain name, the Panel finds that it incorporates the LINCOLN ELECTRIC Trademarks in their entirety, with the addition of the letter “s” at the end. This construction of the disputed domain name does not prevent a finding of confusing similarity since the LINCOLN ELECTRIC Trademarks remain recognizable.

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 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 relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Indeed, it appears that the Respondent has not received any authorization to use the LINCOLN ELECTRIC Trademarks in any manner, including for the registration of the disputed domain name. Moreover, the Panel finds that the Respondent is not commonly known by the disputed domain name and that nothing on the record indicates the Respondent intends to use the disputed domain name in connection with a bona fide offering of goods or services. On the contrary, the disputed domain name resolves to a parked page comprising PPC links, including links related to the Complainants or their field of business. Such use does not represent a bona fide offering where the links compete with or capitalize on the reputation and goodwill of the Complainants' trademarks. [WIPO Overview 3.0](#), section 2.9.

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 the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the LINCOLN ELECTRIC Trademarks. Regarding the distinctiveness and reputation of these trademarks, the Panel considers that the Respondent has registered and used the disputed domain name with full knowledge of the Complainants' trademarks and that it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would be legitimate.

Indeed, according to prior UDRP panel decisions, the mere registration of a domain name that is identical or confusingly similar to a widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see section 3.1.4 of the [WIPO Overview 3.0](#)). Indeed, the Panel considers that it is established that the LINCOLN ELECTRIC Trademarks were registered and used well before the registration of the disputed domain name. By adding an additional letter "s" to the LINCOLN ELECTRIC Trademarks, the Respondent has intentionally attempted to confuse Internet users and capitalized on the fame of the LINCOLN ELECTRIC Trademarks. This further supports a finding of bad faith registration of the disputed domain name.

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.

Indeed, the disputed domain name resolved to a website featuring PPC links to third-party websites, some of which directly reference the Complainants or their field of business, which is evidence of an intent to capitalize on the goodwill of the Complainants' trademarks. The Panel therefore notes that the disputed domain name is being used in bad faith since the Respondent attempted to attract Internet users to its website by creating a likelihood of confusion with the Complainants' trademarks as to the disputed domain name's source, sponsorship, affiliation, or endorsement; an activity clearly detrimental to the Complainants' business under paragraph 4(b)(iv) of the Policy.

Furthermore, the Panel points out that the Respondent is offering to sell the disputed domain name to sell for valuable consideration in excess of the out-of-pocket costs associated with registering the disputed domain name.

Finally, it appears that the Respondent is engaged in a bad faith pattern of cybersquatting. At the time of drafting the decision the Panel noted findings against the Respondent in over 400 cases.

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

*/Christiane Féral-Schuhl/*

**Christiane Féral-Schuhl**

Sole Panelist

Date: July 30, 2024