

## **ADMINISTRATIVE PANEL DECISION**

Lincoln Global, Inc. and The Lincoln Electric Company v. ma man  
Case No. D2024-2631

### **1. The Parties**

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

The Respondent is ma man, China.

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

The disputed domain name <lincolnelectric.shop> is registered with Spaceship, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 26, 2024. On June 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 1, 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 (Redacted for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainants on July 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 July 6, 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 July 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 29, 2024.

The Center appointed Peter Burgstaller as the sole panelist in this matter on August 12, 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 one of the world leaders in the design, development, and manufacture of arc welding products, robotic arc welding systems, plasma and oxy-fuel cutting equipment and have a leading global position in the brazing and soldering alloys market (Annex 6 to the Complaint).

They own and/or have rights in various trademark registrations containing the mark LINCOLN ELECTRIC around the world, inter alia:

- Chinese trademark registration for LINCOLN ELECTRIC (word), Reg. No. 3175662, registered on June 21, 2003;
- European Union trademark registration for LINCOLN ELECTRIC (word), Reg. No. 4725941, registered on November 27, 2006; and
- United States trademark registrations for LINCOLN ELECTRIC (word), Reg. No. 2350124, registered on May 16, 2000, and Reg. No. 3114157, registered on July 11, 2006.

The Complainants' primary domain name is <lincolnelectric.com>, registered on February 24, 1996, it resolves to the main business website of the Complainants (Annexes 4 and 5 to the Complaint). Furthermore, the Complainants own and/or have rights in numerous domain names containing the mark LINCOLN ELECTRIC and have a strong Internet presence especially via Facebook, Instagram, X, or YouTube (Annexes 6 - 8 to the Complaint).

The disputed domain name was registered on March 10, 2024. At the time of filing this Complaint, the disputed domain name resolved to a website where it was offered for sale (Annex 3 to the Complaint).

Before filing this Complaint, the Complainants filed a cease-and-desist letter, a second notice as well as a third and final notice to the Respondent - the Respondent did not answer any of these (Annex 9 to the Complaint).

#### **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 LINCOLN ELECTRIC trademark is distinctive and well-known around the world and note that the disputed domain name contains the LINCOLN ELECTRIC trademark in its entirety, only omitting the space character between LINCOLN and ELECTRIC and along with the generic Top-Level Domain ("gTLD") ".shop", which do not diminish at least the confusing similarity between the disputed domain name and the Complainants' trademark.

The Complainants submit that it is inconceivable that the Respondent would not have been aware of the Complainants' trademark when registering the disputed domain name, since their trademark is well-known around the world and the Complainants have a strong Internet presence since years.

Furthermore, the Complainants note that the disputed domain name is not used for a bona fide offering of goods or services - it is to the contrary: the disputed domain name resolved to a website where it was offered for sale and the Respondent did not answer cease-and-desist letters sent by the Complainants before filing the Complaint.

Finally, the Complainants have at no time authorized the Respondent to use the LINCOLN ELECTRIC mark as a domain name or in any other way.

## **B. Respondent**

The Respondent did not reply to the Complainants' contentions.

## **6. Discussion and Findings**

According to paragraph 4(a) of the Policy, the Complainants must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainants have rights; and
- (ii) the Respondent has no rights or legitimate interests with respect to the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

### **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 identity or confusing similarity involves a reasoned but relatively straightforward comparison between the Complainants' 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.

Based on the available record, the Panel finds the Complainants have shown rights in respect of the trademark LINCOLN ELECTRIC for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark LINCOLN ELECTRIC is reproduced within the disputed domain name without any prefix or suffix; only the space character between LINCOLN and ELECTRIC is omitted. Accordingly, the disputed domain name is identical to the LINCOLN ELECTRIC mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The gTLD (in this case ".shop") is typically viewed as a standard registration requirement and as such is disregarded under the first element identity or confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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.

While 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 often impossible 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. 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 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, since they have never assigned, granted, licensed, sold, transferred, or in any way authorized the Respondent to register or use the LINCOLN ELECTRIC trademark in any manner.

The Respondent is not commonly known under the disputed domain name and the disputed domain name is not being used for a bona fide offering of goods or services.

Furthermore, the nature of the disputed domain name, and the fact that the entirety of the mark LINCOLN ELECTRIC is reproduced within and is identical to the Complainants' mark, cannot be considered fair use as these falsely suggest an affiliation with the Complainants that does not exist. [WIPO Overview 3.0](#), section 2.5.1.

The Respondent did not reply, neither to cease-and-desist letters nor to the Complaint and hence has not rebutted the Complainants' contentions.

Based on the available record, the Panel finds the second element of the Policy has been established.

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

As stated in many decisions rendered under the Policy, both conditions, registration and use in bad faith, must be demonstrated; consequently, the Complainants must show that:

- the disputed domain name was registered by the Respondent in bad faith; and
- the disputed domain name is being used by the Respondent in bad faith.

(i) The Complainants have established rights in the registered trademark LINCOLN ELECTRIC, long before the registration of the disputed domain name. Further, the trademark LINCOLN ELECTRIC is distinctive and well-known around the world and the Complainants have a strong Internet presence with their trademark LINCOLN ELECTRIC since years.

Because of the fame of the LINCOLN ELECTRIC mark, it is inconceivable for this Panel that the Respondent has registered and used the disputed domain name without knowledge of the Complainants' rights. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity (as it is in the present case) can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Therefore, the Panel is convinced that the disputed domain name was registered in bad faith by the Respondent.

(ii) The disputed domain name is also being used in bad faith: the disputed domain name has been directed to a domain name market platform "Dan.com" parking for sale. The Panel finds that the Respondent registered the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring it to the Complainants or to a competitor of the Complainants, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the disputed domain name. Paragraph 4(b)(i) of the Policy.

Furthermore, this Panel concludes that the disputed domain name is being used in bad faith, putting emphasis on the following:

- the Complainants' trademark LINCOLN ELECTRIC is distinctive, well-known globally with a strong Internet presence;
- the Respondent has failed to present any evidence of any good faith use with regard to the disputed domain name;
- the disputed domain name is inherently misleading, and is thus suited to divert or mislead potential Internet users from the website they are trying to visit (the Complainants' site) and giving the false impression that the Respondent must be in some way related with the Complainants which is not the case;
- the Respondent did not reply to cease-and-desist letters from the Complainants; and
- there is no conceivable plausible good faith use with regard to the disputed domain name.

The evidence and documents produced and put forward by the Complainants together with the fact that the Respondent has failed to present any evidence of any good faith registration and use with regard to the disputed domain name further supports the finding of bad faith.

Based on the available record, 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 <lincolnelectric.shop> be transferred to the Complainants.

*/Peter Burgstaller/*

**Peter Burgstaller**

Sole Panelist

Date: August 24, 2024