

## **ADMINISTRATIVE PANEL DECISION**

Lincoln Global, Inc., The Lincoln Electric Company v. SvServers LTD,  
Arumugam Lourdenadin  
Case No. D2024-2749

### **1. The Parties**

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

The Respondent is SvServers LTD, Arumugam Lourdenadin, Malaysia.

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

The disputed domain name <lincolnelectricincinc.com> is registered with Nicenic International Group Co., Limited (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 5, 2024. On July 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 9, 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 (SvServers LTD) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 9, 2024 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 July 16, 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 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 15, 2024.

The Center appointed Ugur G. Yalçiner as the sole panelist in this matter on August 21, 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 Complainant, Lincoln Electric Company and Lincoln Global, Inc. are sister companies owned by Lincoln Electric Holdings Inc. The Complainant was founded in 1895 and 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. The Complainant has 71 manufacturing locations, including operations and joint ventures in 20 countries and a worldwide network of distributors and sales offices covering more than 160 countries, with over 12,000 employees worldwide.

The Complainant is the owner of several trademark registrations consisting of the term LINCOLN ELECTRIC, some of which are listed below:

- European Union trademark registration LINCOLN ELECTRIC with registration No. 004725941, registered on November 27, 2006, in classes 6, 9, 35.
- United States trademark registration LINCOLN ELECTRIC with registration No. 2350082 registered on May 16, 2000, in class 9.
- Malaysian trademark registration LINCOLN ELECTRIC with registration No. 01001305 registered on February 28, 2004, in class 9.
- Singaporean trademark registration LINCOLN ELECTRIC with registration No. T0101311I registered on November 19, 2002, in class 1.

Besides several domain names including the term LINCOLN ELECTRIC, the Complainant also owns the domain name <lincolnelectric.com>, which was registered on February 24, 1996.

The disputed domain name was registered on May 19, 2024, and does not resolve to any active website.

#### **5. Parties' Contentions**

##### **A. Complainant**

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

##### **(i) Identical or Confusingly Similar**

The Complainant contends that the Respondent has added the generic, descriptive term "inc" in duplicate to the Complainant's LINCOLN ELECTRIC trademark, "inc" is an abbreviation for the word "incorporated" and is often used in the names of US companies to indicate that they are corporations, the Complainant's business name is also Lincoln Global, Inc., the omission of the space in the Complainant's LINCOLN ELECTRIC trademark does not diminish the confusing similarity between the disputed domain name and the Complainant's trademarks, thereby the disputed domain name is clearly an exact match to the Complainant's LINCOLN ELECTRIC trademark.

## **(ii) Rights or legitimate interests**

The Complainant alleges that the Respondent is not commonly known by the disputed domain name, which evinces a lack of rights or legitimate interests, the Complainant has not licensed, authorized, or permitted the Respondent to register domain names incorporating the Complainant's trademark, the Registrant, "SvServers LTD / Arumugam Lourdenadin", does not resemble the disputed domain name in any manner and at the time of filing the Complaint, the Respondent was using a privacy WHOIS service, which past panels have also found to equate to a lack of legitimate interest.

The Complainant asserts that the Respondent's purpose is to fool unsuspecting visitors into divulging their personal information by impersonating the Senior Vice President of Global Procurement at Complainant's business with emails sent from [...]@lincolnelectricinc.com to Complainant's vendors for the procurement of goods, the website at which the disputed domain name resolves seeks to take advantage of the fame of the Complainant's trademarks and the trust and goodwill that the Complainant has fostered among consumers to, at minimum, illegitimately increase traffic to the Respondent's website for personal gain, and at worst, 'phish' personal information from the Complainant's customers, this use of the disputed domain name, presumably for commercial gain, and with devious, nefarious motives, clearly fails to constitute a bona fide offering of goods or services.

## **(iii) Registration and Use in Bad Faith**

The Complainant contends that the Respondent knew, or at least should have known, of the existence of the Complainant's trademarks and that registration of domain name containing well-known trademarks constitutes bad faith per se, the Respondent has registered and used the disputed domain name for purposes of launching a phishing attack, which is clear evidence of bad faith registration and use, the Respondent has impersonated the Senior Vice President of Global Procurement at Complainant's business with emails sent from [...]@lincolnelectricinc.com to the Complainant's vendors for the procurement of goods, the Respondent's efforts to masquerade as the Complainant in an attempt to solicit sensitive, financial information from unsuspecting people certainly constitute fraud, which must be considered bad faith registration and use of the disputed domain name.

The Complainant asserts that the disputed domain name can only be taken as intending to cause confusion among Internet users as to the source of the disputed domain name, where the disputed domain name comprise of the Complainant's LINCOLN ELECTRIC trademark in its entirety, there is no plausible good-faith reason or logic for the Respondent to have registered the disputed domain name, moreover the disputed domain name has been setup by the Respondent with active MX records enabling it to send and receive emails in order to confuse Internet users into believing they are dealing with the Complainant, the Respondent's likely intent to use emails from the disputed domain name to pass itself off as the Complainant and/or for fraudulent purposes is neither a bona fide offering of goods or services, nor a legitimate noncommercial or fair use per Policy.

The Complainant contends that the Respondent currently holds registrations for two other domain names that misappropriate the trademarks of other well-known trademarks and businesses, which demonstrates that the Respondent is engaging in a pattern of cybersquatting/typosquatting, at the time of initial filing of the Complaint, the Respondent had employed a privacy service to hide its identity, which past Panels have held serves as further evidence of bad faith registration and use, the Respondent knew of and targeted the Complainant's trademark, and 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

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three elements are present:

- (i) the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of 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 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 Complainant has shown rights in respect of a trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The Panel is satisfied that the Complainant is the owner of LINCOLN ELECTRIC trademarks registered in several jurisdictions.

The disputed domain name incorporates the Complainant's trademark LINCOLN ELECTRIC, with the additional term "inc" in duplicate, which is the abbreviation for "incorporated", indicating a company's legal business structure. In this regard, the Panel considers mere addition of the term "inc" twice does not prevent the confusing similarity with the Complainant's trademark, as the Complainant's LINCOLN ELECTRIC trademark is recognizable within the disputed domain name. [WIPO Overview 3.0](#), section 1.8.

It is an accepted principle that generic Top-Level Domains ("gTLDs"), in this case ".com", are to be typically disregarded in the consideration of the issue of whether a domain name is identical or confusingly similar to a complainant's trademarks. Disregarding the gTLD ".com", the Panel notes that the disputed domain name is confusingly similar to the Complainant's trademark.

In the light of the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's registered trademarks and that the requirements in paragraph 4(a)(i) of the Policy are fulfilled.

### 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 Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence

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

The Panel notes that the Respondent does not have any registered trademarks or trade names and no license or authorization of any other kind has been given to the Respondent by the Complainant to use its registered trademark.

According to the Complainant's assertion and provided documents, the Respondent had registered email address in the name of the Senior Vice President of Global Procurement for the Complainant and used it for phishing for vendor of the Complainant. The Respondent's use of the disputed domain name therefore does not support a finding of rights or legitimate interests in the disputed domain name on the part of the Respondent. Panels have categorically held that the use of a domain name for illegal activity (here in the present case, impersonation/passing off, phishing or other types of fraud) can never confer rights or legitimate interests on a respondent." [WIPO Overview 3.0](#), section 2.13.1

As a result, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and the requirements of paragraph 4(a)(ii) of the Policy are therefore fulfilled by the Complainant.

### **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 is satisfied with the relevant evidence filed by the Complainant showing that it owns trademark rights for LINCOLN ELECTRIC, which has been registered and used for many years prior to the registration of the disputed domain name and the Panel confirms the Complainant's trademark LINCOLN ELECTRIC is well-known around the world.

The Panel is of the opinion that it is implausible for the Respondent to be unaware of the Complainant and its well-known trademark when the disputed domain name was registered, and the Respondent's aim of the registration was to take an unfair advantage of the Complainant's trademark. As the Respondent added the term "inc" in duplicate after the Complainant's well-known trademark LINCOLN ELECTRIC, that gives an impression that the disputed domain name is owned and used by the Complainant. Several UDRP panels have held that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

The Panel is convinced that the purpose of the Respondent is to attract Internet users by creating a likelihood of confusion with the Complainant's trademark for potential commercial gain within the meaning of paragraph 4(b)(iv) of the Policy. The Panel finds that the impersonation was the intention of the Respondent upon registration of the disputed domain name, and that the Respondent targeted the Complainant and its trademark; especially by registering the email address in the name of the person, who works as a Senior Vice President at the Complainant's business, and using that email address to send out phishing email to the vendor of the Complainant. Panels have held that the use of a domain name for illegal activity (here in the present case, impersonation/passing off, phishing or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

The current passive holding of the disputed domain name does not prevent a finding of bad faith, and in fact, under the circumstances of this case reinforces the lack of any good faith explanation for the registration and use of the disputed domain name. [WIPO Overview 3.0](#), section 3.3.

The Panel also considers the Complainant's contention that the Respondent registered other domain names incorporating third parties' trademarks and it has been found by the Panel that the Respondent has engaged in a pattern of abusive registrations. The Panel considers this fact to support the findings of bad faith of the Respondent in this case.

Having considered all the facts in this case, the Panel finds that the Complainant has sustained its burden of proof in showing that the disputed domain name was registered and being used in bad faith.

## **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 <lincolnelectricinc.com> be transferred to the Complainant.

*/Ugur G. Yalçiner/*

**Ugur G. Yalçiner**

Sole Panelist

Date: September 4, 2024