

## **ADMINISTRATIVE PANEL DECISION**

### **Lincoln Global, Inc., The Lincoln Electric Company v. Daniel Moses Case No. D2024-3362**

#### **1. The Parties**

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

The Respondent is Daniel Moses, United States of America (“United States”).

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

The disputed domain name <lincoln-electricinc.com> is registered with eNom, LLC (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 16, 2024. On August 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 16, 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 (Whois Agent (598422383), Whois Privacy Protection Service, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 21, 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 August 23, 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 August 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 17, 2024. The Respondent did not submit any response before the Response due date. Accordingly, the Center notified the Respondent’s default on September 19, 2024.

On September 23, 2024, the Respondent sent an email communication to the Center stating: "I have advice my client to change all passwords. I hope all will be fine now." The Panel has, in its discretion, decided to admit this tardy communication.

The Center appointed Nicolas Ulmer as the sole panelist in this matter on September 27, 2024. The Panel confirms that it was properly constituted and has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, required by the Center to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainants are sister companies under common control who own a number of trademark registrations for LINCOLN ELECTRIC, including the three following registrations:

European Union trademark No. 004725941, registered November 27, 2006

European Union trademark No. 015346935, registered August 31, 2016

United States trademark No. 2350082, registered May 16, 2000

The Complainants are part of a large industrial publicly-listed concern founded more than a hundred years ago and now prominent in welding products and systems, cutting equipment and a number of other industrial applications and tools. Headquartered in the United States, the Complainants' group comprises operations in more than twenty countries; it employs some 120,000 persons worldwide and in 2023 reported sales of USD 3.8 billion.

The Complainants have a significant presence on the Internet, including through their group's primary domain name <lincolnelectric.com>, as well in social media.

The disputed domain name was registered on July 8, 2024.

Little is known about the Respondent who appears to be an individual in the United States.

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

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

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 obviously confusingly similar to their trademarks and that Respondent has not been granted, and does not have, any rights or legitimate interests in the same.

The Complainants further assert that in registering the disputed domain name with such confusing similarity to the Complainants' trademarks, name and domain name the Respondent evidences knowledge and familiarity with the Complainants' brand and business, and this cannot be coincidental but rather can only reflect a bad faith intent. Furthermore, the Complainants assert that the Respondent's actions in redirecting the disputed domain name to the Complainants' own website, setting up the disputed domain name with Mail Exchange (MX) records, together with other activities further demonstrates the Respondent's bad faith.

The Complainants' factual and other contentions are further discussed below where necessary or appropriate.

The Complainants request the transfer of the disputed domain name to them.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

The disputed domain name first recites the entirety of the Complainants' trademark (which is also its well-known company name) with the insertion of a hyphen and the addition of the letters "inc" at the end. "Inc." is, of course, the abbreviation of incorporated used in the United States and elsewhere to denote a corporation. The disputed domain name is obviously confusingly similar to the Complainants' trademarks.

The Complainants have accordingly met their burden under paragraph 4(a)(i) of the Policy.

### **B. Rights or Legitimate Interests**

It is incumbent on the complainant in a UDRP proceeding to establish at least a prima facie case showing that the respondent has no rights or legitimate interests in respect of the disputed domain name. See *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#). Once such a prima facie case is made, the burden of production shifts to the respondent to prove that it has rights or legitimate interests in the disputed domain name. See also, *Meizu Technology Co., Ltd v. "Osama bin Laden"*, WIPO Case No. [DCO2014-0002](#), and *H & M Hennes & Mauritz v. Simon Maufe, Akinsaya Odunayo Emmanuel and Nelson Rivaldo*, WIPO Case No. [D2014-0225](#).

In the present case, the Complainants have made clear that they have not licensed, authorised, or otherwise permitted the Respondent to use its mark in a domain name or in any other manner. Nor is there any evidence that the disputed domain name was used in any bona fide offering of goods or services. Indeed, the Complainants have asserted that the Respondent was planning to use, and submit evidence of use, of the disputed domain name for fraudulent and improper purposes. This point is further discussed in connection with bad faith in the section below; to the extent the disputed domain name has been used for illegal activity this can never confer rights or legitimate interests in the same for the Respondent. See [WIPO Overview 3.0](#), section 3.1.4.

There is also no evidence before the Panel to suggest that the Respondent is commonly known by the disputed domain name or any other evidence or indicia suggesting that the Respondent has any rights in the disputed domain name.

The Respondent, having failed to answer the Complaint (other than in one tardy and non-responsive email) did not rebut the Complainants' prima facie case, and the Panel finds that the Complainant has accordingly met its burden under paragraph 4(a)(ii) of the Policy.

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

The Complainants have here established that their trademarks, which mirror their company name and their primary website, are all long-established and well-known. The Respondent has registered a disputed domain name that copies the Complainants' trademarks with the addition of a hyphen and the generic term "inc" at the end, neither of which diminish its confusing similarity with the Complainants' trademarks. The registration of such a domain name cannot have been serendipitous; it can only have been done in bad faith and with knowledge and familiarity with the Complainants' brand and trademarks - and with bad faith intent. See *Parfums Christian Dior v. Javier Garcia Quintas*, WIPO Case No. [D2000-0226](#).

This view is sustained by the evidence and indicia of the use made of the disputed domain name. The Complaint and its Annexes establish that the Respondent redirected traffic from the disputed domain name to the Complainants' group primary website. This demonstrates both knowledge on the part of the Respondent of the confusing similarity engendered by the disputed domain name and an actual use and practice further engendering it. See *PayPal Inc. v. Jon Shanks*, WIPO Case No. [D2014-0888](#) ("The use of the Disputed Domain Name to redirect to Complainant's own website only serves to increase customer confusion that the Disputed Domain Name is somehow licensed or controlled by Complainant.")

The Complainants have also documented that the Respondent set-up the disputed domain name with MX records, which would enable it to send and receive emails in connection with a disputed domain name - which would here be a bad faith use. Further, in Annex 8 of their Amended Annexes the Complainants submit an email chain which reveals a use of the disputed domain name in connection with an apparently fraudulent attempt to imitate the Complainants vis à vis a potential customer.

The Respondent's initial use of privacy screen and its late and non-responsive email add further indicia of bad faith. The Respondent here is found to have registered and used the disputed domain name in bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

The Panel thus 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 <lincoln-electricinc.com> be transferred to the Complainants.

*/Nicolas Ulmer/*

**Nicolas Ulmer**

Sole Panelist

Date: October 11, 2024