

ADMINISTRATIVE PANEL DECISION

Lincoln Global, Inc., The Lincoln Electric Company v. Daniel Moses, Name Redacted

Case No. D2024-3643

1. The Parties

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

Respondent is Daniel Moses, Name Redacted¹, United States..

2. The Domain Name and Registrar

The Disputed Domain Name <lincoln-electric-corp.com> is registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 9, 2024. On September 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On September 11, 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 (Domain Admin, Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on September 11, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on September 16, 2024.

¹ The Respondent appears to have used the name of a third party when registering the Domain Name. In light of the potential identity theft, the Panel has redacted the Respondent’s organization name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

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 Respondent of the Complaint, and the proceedings commenced on September 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 9, 2024. Respondent sent an email communication to the Center on September 11, 2024. The Center informed Parties that it would proceed with Panel Appointment on October 10, 2024.

The Center appointed Richard W. Page as the sole panelist in this matter on October 14, 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

Complainant was founded in 1895 and began as a result of the vision of its founder John C. Lincoln and his brother James F. Lincoln. John C. started the company with a humble capital investment of USD 200, selling electric motors of his own design. James F. joined the company later as a salesman and the company's product line expanded to include battery charges for electric automobiles. In 1911, Complainant introduced the first variable voltage, single operator, portable welding machine in the world. The company continued to expand in the United States and in 1936 started to expand globally when it established the Lincoln Electric Company Pty Ltd in Australia.

Today, Complainant 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. Known as Welding Experts®, Complainant's solutions are used across diverse industry sectors in over 160 countries. In 2023, Complainant was named one of the "World's Most Ethical Companies" by the Ethisphere Institute, as a fifth-year honoree.

Headquartered in Cleveland, Ohio, 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. Complainant has over 12,000 employees worldwide. In 2022, Complainant (NASDAQ: LECO) reported sales of USD 3.8 billion.

Complainant consists of sister companies, owned by Lincoln Electric Holding Inc., who are the owners of various trademark registrations for LINCOLN ELECTRIC (the "LINCOLN ELECTRIC Mark") in numerous jurisdictions, demonstrating that Complainant has spent a considerable amount of time and money protecting its intellectual property rights. The registrations include, but are not limited to, the following:

United States Registration No. 2,350,082 issued May 16, 2000, in International Class 9;

Canadian Registration No. TMA 573,494 issued January 13, 2003, in International Class 1; and

European Union Registration No. 004725941 issued November 27, 2006, in International Classes 6, 9, and 35.

Complainant has a large Internet presence and is the owner of over 700 domain names which incorporate the LINCOLN ELECTRIC Mark and other trademarks, including its primary domain name <lincolnelectric.com>. According to Similarweb.com, Complainant's website at its primary domain name received over 1.2 million visitors during the period of November 2023 – January 2024, and is ranked 7th in its industry, 31,051st in the United States, and 112,095th globally.

In addition to its many domain names and websites, Complainant has a strong social media presence through the use of its Facebook, Twitter, and YouTube pages. Its Facebook page has over 1.02 million “likes,” while its Twitter page has over 31,900 followers, and its YouTube page has over 51,100 subscribers.

The Disputed Domain Name was registered on July 10, 2024, and resolves to a website which is inactive. Complainant submitted evidence that the Disputed Domain Name previously resolved to a website impersonating Complainant’s business and that it was used to send fraudulent emails impersonating an employee of Complainant.

5. Parties’ Contentions

A. Complainant

Complainant contends that, in creating the Disputed Domain Name, Respondent has added hyphens and the descriptive term “corp” to the LINCOLN ELECTRIC Mark, thereby making the Disputed Domain Name confusingly similar to the LINCOLN ELECTRIC Mark. The fact that such term is closely linked and associated with Complainant’s brand and trademark only serves to underscore and increase the confusing similarity. More specifically: “corp” is an abbreviation for the word “corporation” and is often used in the name of United States companies. Respondent’s addition of hyphens in between the terms does nothing to distinguish the Disputed Domain Name from the LINCOLN ELECTRIC Mark.

Complainant alleges that Respondent is not sponsored by or affiliated with Complainant in any way. Furthermore, Complainant has not given Respondent permission to use the LINCOLN ELECTRIC Mark. Complainant has not licensed, authorized, or permitted Respondent to register domain names incorporating the LINCOLN ELECTRIC Mark.

Complainant further alleges that Respondent is not commonly known by the Disputed Domain Name, which evidences a lack of rights or legitimate interests. Furthermore, at the time of filing the Complaint, Respondent was using a privacy WhoIs service.

Complainant further alleges that the Disputed Domain Name previously resolved to a website impersonating Complainant’s brand and business with the use of its copyrighted logo without authorization. In creating the impression that Respondent’s website is one that is authorized and administered by Complainant, Respondent’s purpose was to fool unsuspecting visitors into divulging their personal information by impersonating the Senior Vice President at Complainant’s business with emails sent from “[...]@lincoln-electric-corp.com” to Complainant’s vendors for the procurement of goods. Such activities constitute phishing personal information from Complainant’s customers and are likely part of a larger plan to perpetrate fraud by exploiting the fraudulently acquired personal information to acquire sensitive financial information. This activity also constitutes Respondent passing itself off as Complainant. This use cannot be considered a bona fide offering of good or services or a legitimate noncommercial use.

Complainant further alleges that Respondent is currently using the Disputed Domain Name to direct Internet users to an inactive website. Complainant further alleges that Respondent has failed to make use of the Disputed Domain Name’s website and has not demonstrated any attempt to make legitimate use of the Disputed Domain Name or website.

Complainant submits that Respondent registered the Disputed Domain Name on July 10, 2024, which is significantly after Complainant filed for registration of its LINCOLN ELECTRIC Mark and also significantly after Complainant’s first use in commerce in 1915. Complainant further submits that the registration of the Disputed Domain Name is also significantly after Complainant’s registration of its <lincolnelectric.com> primary website on February 24, 1996. Thus, Respondent had actual and constructive knowledge of Complainant’s rights in the LINCOLN ELECTRIC Mark and primary domain name.

Complainant further submits that the LINCOLN ELECTRIC Mark is well-known internationally, with registrations across numerous countries. Complainant has marketed and sold its good and services using this LINCOLN ELECTRIC Mark since 1915, well before Respondent's registration of the Disputed Domain Name on July 10, 2024.

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable."

Even though Respondent has failed to file a Response or to contest Complainant's assertions, the Panel will review the evidence proffered by Complainant to verify that the three essential elements of the claims are met. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.3.

Paragraph 4(a) of the Policy directs that Complainant must prove each of the following three elements:

- i) that the Disputed Domain Name registered by Respondent is identical or confusingly similar to the LINCOLN ELECTRIC Mark in which Complainant has rights;
- ii) that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and,
- iii) that the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

[WIPO Overview 3.0](#), section 1.2.1 states that registration of a trademark is prima facie evidence of Complainant having enforceable rights in the LINCOLN ELECTRIC Mark.

Complainant has shown rights in respect of the LINCOLN ELECTRIC Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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 LINCOLN ELECTRIC Mark and the Disputed Domain Name. [WIPO Overview 3.0](#), section 1.7.

The LINCOLN ELECTRIC Mark is recognizable within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the LINCOLN ELECTRIC Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms may bear on assessment of the second and third elements, the Panel finds the addition of such terms, in this case the hyphens and the word "corp", does not prevent a finding of confusing similarity between the Disputed Domain Name and the LINCOLN ELECTRIC Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy allows three non-exclusive methods for the Panel to conclude that Respondent has rights or legitimate interests in the Disputed Domain Name:

(i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a bona fide offering of goods or services; or

(ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Disputed Domain Name, even if you have acquired no trademark or service mark rights; or

(iii) you [Respondent] are making a legitimate noncommercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the LINCOLN ELECTRIC Mark at issue.

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 disputed 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 the complainant makes out a prima facie case that a 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 disputed 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Disputed Domain Name. Respondent has not rebutted Complainant’s 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.

Panels have held that the use of the Disputed Domain Name for illegal activity, here claimed phishing and passing off can never confer rights or legitimate interests on Respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that the Disputed 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.

Panels have found that the non-use of a disputed domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the LINCOLN ELECTRIC Mark, and the composition of the Disputed Domain Name, and finds that in the circumstances of this case the current passive holding of the Disputed Domain Name does not prevent a finding of bad faith under the Policy.

[Panels have held that the use of a domain name for illegal activity, here claimed as phishing and passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent’s registration and use of the Disputed Domain Name constitutes bad faith under the Policy.

The Panel further finds that Respondent had actual and constructive knowledge of Complainant's right in the LINCOLN ELECTRIC Mark when he registered the Disputed Domain Name. [WIPO Overview 3.0](#), section 3.2.2.

The Panel finds that 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 <lincoln-electric-corp.com> be transferred to the Complainant.

/Richard W. Page/

Richard W. Page

Sole Panelist

Date: October 18, 2024