

ADMINISTRATIVE PANEL DECISION

Lincoln Global, Inc., The Lincoln Electric Company v. Daniel Moses
Case No. D2024-4326

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 Daniel Moses, United States.

2. The Domain Name and Registrar

The disputed domain name <lincolnelectric-corp.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 October 21, 2024. On October 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 21, 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 (515073383), Whois Privacy Protection Service, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainants on October 24, 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 amended Complaints on October 29 and 30, 2024, respectively.

The Center verified that the Complaint together with the amended Complaints 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 October 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 25, 2024.

The Center appointed William F. Hamilton as the sole panelist in this matter on December 2, 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 under common control by Lincoln Electric Holdings Inc. (collectively, the "Complainant"). The Complainant designs, develops, and manufactures arc welding products, robotic arc welding systems, plasma, and oxy-fuel cutting equipment and have a global position in the brazing and soldering alloys market.

The Complainant is headquartered in Cleveland, Ohio, and operates 71 manufacturing and automation system integration locations across 21 countries. The Complainant maintains a worldwide network of distributors and sales offices serving customers in over 160 countries. The Complainant employs more than 12,000 workers worldwide. In 2022, the Complainant reported sales of USD 3.8 billion.

The Complainant owns numerous registrations for the trademark LINCOLN ELECTRIC (the "Mark"), including the following United States registrations:

- Registration No. 2350082, with a registration date of May 16, 2000;
- Registration No. 2420805, with a registration date of January 16, 2001;
- Registration No. 3114157, with a registration date of July 11, 2006.

The Complainant is the owners of over 700 domain names which incorporate the Mark, including their primary domain name <lincolnelectric.com>.

The Respondent registered the disputed domain name on September 12, 2024. The disputed domain name redirects to the Complainant's primary domain name <lincolnelectric.com>. The disputed domain name has an associated mail exchange ("MX") record.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that the disputed domain name is confusingly similar to the Mark because the disputed domain name incorporates the Mark and merely omits the space between the words of the Mark and adds the term "-corp". The Complainant contends that they have never authorized the Respondent to use the disputed domain name, that the Respondent is not generally known by the disputed domain name, has never operated a business under the disputed domain name, and has never engaged in any bona fide commercial activity in connection with the disputed domain name. The Complainant contends that the Respondent has no rights or legitimate interests in the Mark and has registered and used the disputed domain name in bad faith to disrupt the Complainant's business and to engage in other potential malicious behavior.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was 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 the Mark for the purposes of the Policy. The disputed domain name incorporates the Mark in its entirety apart from omitting the space between the words of the Mark and adding the term "-corp". Such modifications do not prevent a finding of confusing similarity with the Mark under the first element. [WIPO Overview 3.0](#), section 1.8; *Lincoln Global, Inc., The Lincoln Electric Company v. Daniel Moses*, WIPO Case No. [D2024-3362](#) (transferring <lincoln-electricinc.com>); *Lincoln Global, Inc., The Lincoln Electric Company v. Daniel Moses, Name Redacted*, WIPO Case No. [D2024-3643](#) (transferring <lincoln-electric-corp.com>).

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.

The Complainant has never authorized or licensed the Respondent to use the Mark. 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 this showing and has not provided evidence of any of the circumstances set forth in paragraph 4(c) of the Policy.

The Respondent has used the disputed domain name to redirect to the Complainant's primary domain name, which does not establish any rights or legitimate interests of the Respondent in the disputed domain name. *Mandarin Oriental Services B.V. v. Domain Administrator, Matama*, WIPO Case No. [D2017-0615](#) ("redirecting the disputed domain name to the Complainant's own website ... does not constitute rights or legitimate interests of the Respondent in the disputed domain name.")

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

C. Registered and Used in Bad Faith

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following non-exhaustive scenarios:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

The Respondent registered the disputed domain name many years after the Complainant's Mark was registered and became well known in its industry. Given the fame of the Mark, the Respondent's redirection of the disputed domain name to the Complainant's primary domain name, and the Respondent's registration of other domain names targeting the Complainant (see cases under section 6.A above), the Panel finds that the Respondent was aware of the Complainant's rights when registering the disputed domain name. MX records have been associated with the disputed domain name allowing the disputed domain name to be actively used for illicit email purposes. The Panel finds it is likely that the disputed domain name may be fraudulently used for phishing, impersonating, or passing off. [WIPO Overview 3.0](#), section 3.1.4 ("[P]anels have found that a respondent redirecting a domain name to the complainant's website can establish bad faith insofar as the respondent retains control over the redirection thus creating a real or implied ongoing threat to the complainant.").

The Respondent ignored the Complainant's cease-and-desist communication. A failure to respond to a cease-and-desist demand may properly be considered a factor in finding bad faith registration and use of a domain name. *Encyclopaedia Britannica, Inc. v. John Zuccarini and The Cupcake Patrol a/ka Country Walk a/k/a Cupcake Party*, WIPO Case No. [D2000-0330](#) (failure to positively respond to a demand letter provides "strong support for a determination of 'bad faith' registration and use").

The Panel finds that the Respondent registered and is using the disputed domain name in bad faith. 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 <lincolnelectric-corp.com> be transferred to the Complainants.

/William F. Hamilton/

William F. Hamilton

Sole Panelist

Date: December 16, 2024