

ADMINISTRATIVE PANEL DECISION

Chocoladefabriken Lindt & Sprüngli AG v. Domain Privacy, Domain Name Privacy Inc.

Case No. DCO2024-0079

1. The Parties

The Complainant is Chocoladefabriken Lindt & Sprüngli AG, Switzerland, represented by SILKA AB, Sweden.

The Respondent is Domain Privacy, Domain Name Privacy Inc., Cyprus.

2. The Domain Name and Registrar

The disputed domain name <sinlindt.co> (the “disputed Domain Name”) is registered with Dynadot Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 25, 2024. On October 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed Domain Name. On October 26, 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, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 28, 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 amendment to the Complaint on October 29, 2024.

The Center verified that the Complaint together with the amendment to the 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 October 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 19, 2024.

The Center appointed Ana María Pacón as the sole panelist in this matter on November 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 is a Swiss company founded in 1845. It is a leading chocolatier and confectionery brand specializing in premium-quality chocolate, offering a wide range of products in over 120 countries worldwide. Over its more than 175 years of existence, the Complainant has earned a reputation as one of the most innovative and creative companies in the premium chocolate industry.

Today, the Complainant produces its high-quality chocolate products at 12 production sites across Europe and the United States. These products are distributed through 36 subsidiary companies and branch offices, over 520 proprietary stores, and an extensive network of more than 100 independent distributors globally. With a workforce exceeding 14,500 employees, the Complainant reported sales of CHF 5.20 billion and an operating profit of CHF 813 million in 2023.

Relevant to these proceedings, the Complainant has registered the trademark LINDT worldwide, including:

- United States Trademark Registration No. 87306 for the trademark LINDT (word mark), registered on July 9, 1912, in international class 30 ("Chocolate candies"). The date of first use of the trademark is 1879.
- United Kingdom Trademark Registration No. UK00000551197 for the trademark LINDT and logo, registered on May 17, 1934, in international class 30 ("Chocolate and cocoa").
- Canada Trademark Registration No. UCA26258 for the trademark LINDT (word mark), registered on October 17, 1946, in international class 30 ("Alimentary products, namely: chocolate and milk chocolate products, cocoa and cocoa products").
- International Trademark Registration No. 217838 for the trademark LINDT (figurative), registered on March 2, 1959, in international class 30 ("Cocoa and plain chocolates, filled chocolates or in combination with other substances; confectionery goods").
- International Trademark Registration No. 348017 for the trademark LINDT and logo, registered on August 30, 1968, in international class 30 ("Cocoa, foodstuffs containing cocoa, cocoa beverages, chocolate, couvertures, pralines filled with or without liquids with or without liquids, in particular filled with wines and spirits, sugar confectionery, sweets").
- European Union Trademark Registration No. 000134007 for the trademark LINDT (word mark), registered on September 7, 1998, in international class 30 ("Cocoa, cocoa extracts for food and luxury, articles, cocoa products, namely chocolate pastes, chocolate sweets, almond paste, almond paste substitutes, chocolates and confectionery for the pralines; pralines filled with wine and spirits").
- United States Trademark Registration No. 2031928 for the trademark LINDT and logo, registered on January 21, 1997, in international class 30 ("chocolate bars and chocolates, also with liquid fillings made from wine and spirits"). The date of first use of the trademark is December 1993.

The Complainant is also the registrant of numerous domain names under various generic and country code Top-Level Domains ("ccTLDs") that comprise its trademark, such as <lindt.com>, registered since December 16, 1997.

The disputed Domain Name was registered on July 29, 2024. Since the registration date, the disputed Domain Name has reverted to a parking page with pay-per-click ("PPC") links referring to different sectors of activity, close to those of the Complainant.

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.

Notably, the Complainant argues that the disputed Domain Name incorporates the Complainant's LINDT trademark in its entirety, making the trademark clearly recognizable within the disputed Domain Name. According to several UDRP panels, when a domain name wholly includes the entirety of a trademark, it is typically considered confusingly similar.

Furthermore, the Complainant contends that the Respondent lacks any rights or legitimate interests in the disputed Domain Name. The Respondent was not commonly known by the disputed Domain Name prior to the Complainant's adoption and use of the trademark. Moreover, the Respondent has no affiliation, association, sponsorship, or connection with the Complainant, and has not been authorized, licensed, or otherwise permitted by the Complainant or any of its subsidiaries or affiliates to register or use the disputed Domain Name.

Under paragraph 4(a)(iii), the Complainant contends that the Respondent registered and is using the disputed Domain Name in bad faith. Given the distinctiveness of the LINDT mark, the Respondent must have been aware of its existence when registered the disputed Domain Name. Moreover, the disputed Domain Name resolves to a parking website containing PPC links related to various sectors of activity, some of which are closely aligned with those of the Complainant. This suggests an intent to exploit Internet users searching for LINDT products. The Complainant further notes that past UDRP panels have found bad faith in similar circumstances. Additionally, the Respondent has attempted to conceal its identity by registering the disputed Domain Name through an anonymization company.

The Complainant requests the transfer of the disputed Domain Name.

B. Respondent

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

6. Discussion and Findings

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 or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed Domain Name. Accordingly, the disputed Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the term "sin" may be relevant to the assessment of the second and third elements, the Panel finds that the inclusion of such term does not prevent a finding of confusing similarity between the disputed Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Then there is the addition of the ccTLD here “.co”. As is generally accepted, the addition of a ccTLD such as “.co” is merely a technical registration requirement and as such is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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.

Having reviewed the present 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 Name such as those enumerated in the Policy or otherwise.

Applying UDRP paragraph 4(c), UDRP panels have held that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users. [WIPO Overview 3.0](#), section 2.9. See, among others, *Merck Sharp & Dohme Corp. v. Domain Administrator, PrivacyGuardian.org / George Ring, DN Capital Inc.*, WIPO Case No. [D2017-0302](#).

Moreover, the nature of the disputed Domain Name carries a risk of implied affiliation as it wholly incorporates the Complainant’s trademark and can be considered a variation of the Complainant’s domain name <lindt.com>. [WIPO Overview 3.0](#), section 2.5.1.

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

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 notes that the Complainant has substantiated the fact that its trademark LINDT, which has been registered and being used, now benefits from public awareness worldwide.

A number of UDRP panels have arrived at a finding that registering a domain name with knowledge of another company’s rights in a domain name, and with intention to divert traffic, may serve as evidence of bad faith registration (see *Digital Spy Limited v. Moniker Privacy Services and Express Corporation*, WIPO Case No. [D2007-0160](#); *PepsiCo, Inc. v. “null”, aka Alexander Zhavoronkov*, WIPO Case No. [D2002-0562](#); and *The Gap, Inc. v. Deng Youqian*, WIPO Case No. [D2009-0113](#)). This Panel finds it implausible that the registration of the disputed Domain Name took place in good faith, particularly in light of the fact that the Complainant owns and uses the nearly identical domain name <lindt.com>. Based on the evidence, the Panel concludes that the Respondent was aware of the LINDT trademark when it registered the disputed Domain Name.

Furthermore, using the disputed Domain Name to host a PPC parking page the Respondent creates a likelihood of confusion with the Complainant's trademark and potentially obtains revenue from this practice. Previous UDRP decisions have considered this type of use of a domain name sufficient to demonstrate bad faith. [WIPO Overview 3.0](#), section 3.5. For reference on the subject, see *Serta Inc. v. Charles Dawson*, WIPO Case No. [D2008-1474](#); see also *Asian World of Martial Arts Inc. v. Texas International Property Associates*, WIPO Case No. [D2007-1415](#).

Using a domain name to intentionally attract Internet users to a website for commercial gain, in an effort to trade on the Complainant's goodwill, is evidence of bad faith registration and use under the Policy (see *Adobe Systems Incorporated v. Domain OZ*, WIPO Case No. [D2000-0057](#)). The Panel is of the opinion that the Respondent deliberately registered the disputed Domain Name with the intent to divert Internet users from the Complainant's website to the Respondent's PPC parking page, and this constitutes bad faith registration and use.

Finally, it is documented that the Respondent sought to conceal its true identity by using an identity-shielding service. In the Panel's view, this further corroborates the finding that the Respondent acted in bad faith. See *Philip Morris USA Inc. v. Domain Admin, C/O ID#10760, Privacy Protection Service INC d/b/a PrivacyProtect.org / Andrejs B Pauls*, WIPO Case No. [D2017-0474](#).

Additionally, the absence of a reply from the Respondent further suggests bad faith.

The Panel finds that 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 <sinlindt.co> be transferred to the Complainant.

/Ana María Pacón/

Ana María Pacón

Sole Panelist

Date: December 5, 2024