Decision for dispute CAC-UDRP-106393

Case number	CAC-UDRP-106393
Time of filing	2024-03-27 10:08:44
Domain names	linditbrasil.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Chocoladefabriken Lindt & Sprüngli AG

Complainant representative

Organization	SILKA AB

Respondent

Organization	Lindit Brasil

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant provides proof that it holds many trademark registrations for the LINDT mark, covering numerous jurisdictions around the world -- including specifically in Brazil since August 2007.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy). The disputed

domain name at the second level consists of a misspelt variation of the Complainant's LINDT mark (the addition of an 'i' before the 't'), only followed by the country name 'Brasil'. From a side-by-side comparison, the Complainant's mark is clearly recognisable in the string. (See WIPO Overview 3.0, section 1.7), and panels have also consistently held that a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered confusingly similar for the purposes of the first UDRP element. (See WIPO Overview 3.0, section 1.9).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

The Complainant submits that the Respondent lacks rights or legitimate interests in the disputed domain name. Complainant states that the Respondent has not registered any trademarks, nor does the Respondent have unregistered trademark rights, for 'linditbrasil' or any similar term. The Complainant submits that the Respondent is not known, nor has ever been known, by its distinctive LINDT mark, 'linditbrasil', nor anything similar. The Complainant states that Respondent is not connected to nor affiliated with the Complainant and has not received license or consent to use the LINDT mark in any way. Additionally, Complainant states that the Respondent has not been licensed by the Complainant to register domain names featuring its LINDT mark, nor any confusingly similar variant thereof. According to the Registrar Verification, the Respondent is identified as Lindit Brasil. Complainant submits that this is a fabricated name to match the disputed domain name, and that there is no company in Brazil recognized by this name.

Given the submissions made in the Complaint, the Complainant has presented a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain Name for the purposes of paragraph 4(a)(ii) of the Policy. Thus, the burden shifts to the Respondent to put forward evidence to show that it has rights or legitimate interests in the disputed domain name. However, the Respondent has failed to appear with any response, and so the Complainant's allegations are accepted as true.

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy). Under the Policy, bad faith is understood to occur where a respondent 'takes unfair advantage of or otherwise abuses a complainant's mark'. (See WIPO Overview 3.0, section 3.1). The Complainant submits that the Respondent has both registered and is using the disputed domain name in bad faith, in accordance with paragraph 4(a)(iii) of the Policy.

The Complainant submits that the Respondent's misspelling of the Complainant's LINDT mark in the disputed domain name string constitutes further evidence of its prior awareness of and intention to target the Complainant through its registration of the disputed domain name. The Respondent's selection capitalises on internet users who have inadvertently mistyped the Complainant's LINDT mark when trying to reach an official site of the Complainant. Such conduct is clear evidence of bad faith registration.

Furthermore, the Respondent has used the disputed domain name, which is confusingly similar to the Complainant's LINDT mark, to attract users familiar with the Complainant to a site which impersonates Complainant. This use reflects the Respondent's intention to derive commercial gain from confused internet users who, believing they are interacting with a site controlled/authorised by the Complainant, attempt to purchase the site's purported offerings. Panels have consistently held that a respondent's use of a domain name to impersonate a complainant (or pass off as such) is evidence of bad faith registration and use under the Policy.

Therefore, the Complainant has proved that Respondent registered and has used the disputed domain name in bad faith.

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

Respondent has used the disputed domain name, which is confusingly similar to the Complainant's LINDT mark, to attract users familiar with the Complainant to a site which impersonates the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **linditbrasil.com**: Transferred

PANELLISTS

Name	**Mike Rodenbaugh**

DATE OF PANEL DECISION 2024-04-19

Publish the Decision