Decision for dispute CAC-UDRP-106391

Case number	CAC-UDRP-106391
Time of filing	2024-03-27 10:20:33
Domain names	liindt.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	Chocoladefabriken Lindt & Sprüngli AG

Complainant representative

Organization	SILKA AB

Respondent

Organization	Louth Ecom

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 is the owner of numerous « LINDT » trademarks, including the following:

International trademark LINDT (word) No. 217838, registered on March 2, 1959;
European trademark LINDT (word) No. 000134007, registered on September 7, 1998;
United States trademark LINDT (word) No. 87306, registered on July 9, 1912;
Canadian Trademark LINDT (word) No. UCA26258, registered on October 17, 1946.
The Complainant is also the owner of numerous domain names comprising the LINDT trademark, such as the domain names <lindt.com>, <lindt.ch>, <lindt.co.uk>, <lindt.it>, <lindtusa.com>, <lindt.ca>, <lindt.com.br>, <lindt.jp>, <lindt.cn> and <lindt.com.au>.

FACTUAL BACKGROUND

The Complainant, founded in 1845, is a well-known chocolate maker based in Switzerland. As a leader in the market of premium quality chocolate, the Complainant has 11 production sites in Europe and the United States and its products are distributed via 28 subsidiaries, 500 own-brand retail shops and a comprehensive network of more than 100 distributors in over 120 countries. The Complainant has more than 14,000 employees and had revenues of CHF 5.2 billion in 2023.

The disputed domain name <liindt.com> was registered on March 2, 2024.

The disputed domain name is currently inactive. From the submissions provided by the Complainant it appears that previously (at least on March 2, 2024) the disputed domain name was used to resolve to a website offering purported Lindt-branded goods at discounted prices, and presenting copyrighted imagery of the Complainant's products.

PARTIES CONTENTIONS

The Complainant contends that:

1. The disputed domain name is confusingly similar to the Complainant's trademark.

The Complainant contends that the disputed domain name is a misspelt version of the LINDT trademark, and thus it is confusingly similar to its trademark.

2. The Respondent does not have any rights or legitimate interest in the disputed domain name

The Complainant contends that the Respondent is not commonly known by the disputed domain name and that the Respondent is not affiliated with or authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and is not related to the Complainant's business in any way. The Complainant does not carry out any activity for, nor has any business dealings with, the Respondent.

3. The disputed domain name has been registered and is being used in bad faith

The Complainant contends that owing to the distinctiveness of the Complainant's trademark and reputation, it is inconceivable that the Respondent could have registered the disputed domain name without actual knowledge of Complainant's rights in the LINDT trademark.

The Complainant further contends that the misspelling of the LINDT trademark was intentionally designed to be confusingly similar to the Complainant's trademark, and that this action constitutes a clear case of typosquatting, which is a further indication of bad faith registration and use. The Complainant further contends that the Respondent, by prominently and repeatedly brandishing the LINDT logo in conjunction with other distinctive visual indicia representative of the Complainant, has clearly attempted to impersonate/pass off as the Complainant. Finally, the Complainant, quoting previous UDRP decisions, affirms that the use of a domain name to impersonate a complainant (or pass oneself off as such) is evidence of bad faith registration and use under the Policy.

RESPONDENT:

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).

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).

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).

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

A) Confusing similarity
The sole difference between the disputed domain name and the Complainant's trademark is the addition of a single letter, i.e. "i". Thus, the Panel agrees with the Complainant's assertions that slight spelling variations do not prevent a disputed domain name from being confusingly similar to the Complainant's trademark and that the present case represents a clear case of typo-squatting.
B) Lack of legitimate rights or interests
The disputed domain name is a distinctive, non-descriptive name, the LINDT trademark is more than renowned, and finally, on the Respondent's website the LINDT trademark and logo are displayed next to images of purported LINDT-branded goods. It is therefore at the least very unlikely that the Respondent registered the disputed domain name without having the Complainant firmly in mind.
The Complainant's assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show, using tangible evidence, that it does have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so.
Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C) Registered and Used in Bad Faith
The Complainant gives sound bases for its contention that the disputed domain name was registered and has been used in bad faith.
Firstly, owing to the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademarks, and so the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant's trademarks when registering the disputed domain name.

Secondly, the Panel accepts the Complainant's unchallenged assertion that the Respondent registered the disputed domain name with the aim of creating a likelihood of confusion with the Complainant's trademark for commercial gain.

Thirdly, the disputed domain name appears to be a clear case of typosquatting.

Finally, the Respondent has not responded to nor denied any of the assertions made by the Complainant in this proceeding.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **liindt.com**: Transferred

PANELLISTS

Name	**Fabrizio Bedarida**

DATE OF PANEL DECISION 2024-04-22

Publish the Decision