Decision for dispute CAC-UDRP-106724

Case number	CAC-UDRP-106724
Time of filing	2024-07-22 11:25:47
Domain names	lintusa.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Chocoladefabriken Lindt & Sprüngli AG

Complainant representative

Organization	SILKA AB

Respondent

Name	Manoj Kumar

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

Complainant is the owner of multiple trademarks for LINDT, including the trademark LINDT registered with the United States Patent and Trademark Office, registration No. 4479429 and registration date 11 February 2014.

FACTUAL BACKGROUND

According to the information provided by the registrar the disputed domain name <lintusa.com> was registered on 15 June 2024.

The disputed domain name does not resolve to an active webpage but redirects to Complainant's official website under the domain name <lindtusa.com>.

PARTIES CONTENTIONS

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

According to the evidence submitted the origin of Complainant dates back to 1836. Complainant is the second largest Swiss chocolate confectionery company, and the seventh chocolate company in the world. Complainant has opened over 410 chocolate cafes and shops all over the world and produces in its 12 factories, located in Switzerland, Germany, France, Italy, Austria and the United States. Complainant's products (more than 2,500) are sold and distributed throughout an extensive network of more than 100 distributors in over 120 countries. Complainant's presence in the USA market is large, operating more than 50 retail stores,

According to Complainant the disputed domain name is confusingly similar to Complainant's trademark. Complainant asserts that the disputed domain name incorporates Complainant's well-known registered trademark LINDT almost in its entirety (except for the letter "D"), together with the geographical term "USA"', acronym for the United States of America. This misspelling of the disputed domain name, also known as "typosquatting", must be considered intentional by Respondent to confuse the Internet user, whose eye and brain will automatically read Complainant's trademark and therefore, click on the disputed domain name by mistake. Complainant submits that Respondent has selected the specific term "USA" in the disputed domain name to make the Internet users believe that the disputed domain name is Complainant's official website under the domain name <lindtusa.com> (to where the disputed domain names redirects), which currently operates in the USA market. As many prior UDRP decisions stated, the addition of a geographic or descriptive term does not help to distinguish a domain name from a complainant's trademark and that, on the contrary, it may well serve to heighten the likelihood of confusion.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Complainant has not found that Respondent is commonly known by the disputed domain name and there is no evidence that Respondent has a history of using or preparing to use the disputed domain name in connection with a bona fide offering of goods and services. Complainant has not granted authorization or license to Respondent to use the trademark LINDT, and therefore, Respondent has no rights (including trademark rights), in respect of LINDT. Complainant confirms that there is no business or legal relationship between Complainant and Respondent.

According to Complainant the disputed domain name is registered and is being used in bad faith.
Complainant has registered trademark rights in the trademark LINDT since 1899 onwards and has been using the trademark for decades, and especially in its domain names since at least 1996. Complainant submits that it and its trademark LINDT enjoy a widespread reputation worldwide, so it seems highly unlikely that Respondent was unaware of the existence of Complainant's trademark when the disputed domain name was registered; the unlawfulness of the registration of the disputed domain name seems clear to Complainant.
According to Complainant the disputed domain name is redirected to Complainant's official website under the domain name <lindtusa.com>. Complainant believes that such redirection constitutes use in bad faith and that it is an attempt to take advantage of Complainant's goodwill. Complainant contends that the redirection of the disputed domain name to its own website demonstrates Respondents' fraudulent intent and could potentially be used to impersonate Complainant's identity.

Respondent:
No administratively compliant Response has been filed.

RIGHTS

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 Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

Complainant has, to the satisfaction of the Panel, shown 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

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

In the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademark. Many UDRP decisions have found that a disputed domain name is identical or confusingly similar to a complainant's trademark where the disputed domain name incorporates the complainant's trademark or the principal part thereof in its entirety or where a disputed domain name consists of a common, obvious or intentional misspelling of a trademark. Complainant has established that it is the owner of trademark registrations for LINDT. The disputed domain name incorporates the principal part of the well-known LINDT trademark as its distinctive element. The deletion of the letter "d" in the disputed domain name is a typical case of typosquatting, and is insufficient to avoid a finding of confusing similarity as the LINDT trademark remains the dominant component of the disputed domain name. The addition in the disputed domain name of the geographical term "USA" adds to the confusing similarity especially as the disputed domain name redirects to Complainant's official USA website.
The top-level domain "com" in the disputed domain name may be disregarded.
The Panel notes that Complainant's registration of its trademark predates the creation date of the disputed domain name.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interest in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use its trademark or to register the disputed domain name incorporating its mark. Respondent is not 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 trademark of Complainant. Respondent is not commonly known by the disputed domain name nor has it acquired trademark rights. Complainant has no relationship with Respondent. In the view of the Panel this case is a typical case of typosquatting which does not confer any rights nor interest in the disputed domain name. In addition, the fact that the disputed domain name does not resolve to an active website but redirects to Complainant's official USA website does not represent a bona offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain name.
Respondent did not submit any response and Respondent has not rebutted Complainant's prima facie case. Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. Complainant has rights in the LINDT trademark. Respondent knew or should have known that the disputed domain name includes a typosquat version of Complainant's well-known LINDT mark.
The Panel notes that the disputed domain name at the time of the decision does not resolve to an active website. This does not prevent the Panel in finding bad faith under the doctrine of passive holding (see section 3.3 of the WIPO Overview 3.0). The Panel also notes that Respondent's current use of the disputed domain name (which redirects to Complainant's official USA website) indicates that Respondent registered the disputed domain name with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademark of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith in a similar manner to that provided under paragraph 4(b)(iv) of the Policy.
The Panel concludes that Complainant has proven that the disputed domain name has been registered and is being used in bad faith and paragraph 4(a)(iii) of the Policy has been satisfied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **lintusa.com**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2024-08-19

Publish the Decision