Decision for dispute CAC-UDRP-107339

Case number	CAC-UDRP-107339
Time of filing	2025-02-19 10:13:17
Domain names	lindtsprungliinc.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Chocoladefabriken Lindt & Sprüngli AG

Complainant representative

Organization	SILKA AB

Respondent

Organization	Lindt & Sprungli (USA) Inc.

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 several trademarks LINDT, registered worldwide, including United States registration LINDT with registration number 87306 of July 9, 1921 for goods in class 30.

FACTUAL BACKGROUND

The Complainant is a Swiss company which was founded in 1845. The Complainant is a leader in the market of premium quality chocolate and has 11 production sites in Europe and the United States its more than 2,500 products are distributed via 28 subsidiaries, 500 own retail shops, and a network of more than 100 distributors in over 120 countries. The Complainant has more than 14,000 employees and made a revenue of CHF 5.2 billion in 2023.

The Complainant has a subsidiary in the United States whose corporate name and registered address have been used by the Respondent, together with the name of a corporate management member of the Complainant, in the WHOIS information.

The disputed domain name was registered on December 3, 2024 and resolves to a website that shows, among other things, the address and telephone details of the Complainant's United States subsidiary, together with an email address under the disputed domain name, and a contact form. Furthermore, the disputed domain name was configured with multiple MX (mail exchange) records.

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).

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

The Respondent did not reply to the Complainant's contentions. However, the consensus view of UDRP panels is that the Respondent's default does not automatically result in a decision in favor of the Complainant. The Complainant must still establish each of the three elements required by paragraph 4(a) of the Policy. Although the Panel may draw appropriate inferences from a respondent's default, paragraph 4 of the Policy requires the Complainant to support its assertions with actual evidence in order to succeed in these proceedings. Paragraph 14(b) of the Rules provides that, in the absence of exceptional circumstances, the Panel shall draw such inferences as it considers appropriate from a failure of a party to comply with a provision or requirement of the Rules. The Panel finds that in this case there are no such exceptional circumstances.

The Panel finds that the disputed domain name is confusingly similar to the LINDT trademark identified above, as the disputed domain name contains the trademark in its entirety, with the addition of "sprungli" and "inc", which does not prevent a finding of confusing similarity under the first element.

The Complainant has contended that the Respondent does not have trademark rights for, nor is it commonly known by the disputed domain name, and the Complainant neither licensed or authorized the Respondent to register or use the disputed domain name, nor is the Respondent connected or affiliated to the Complainant. The Complainant further alleged that the Respondent's use of the Complainant's corporate name and contact details, together with the Respondent's use of the name of the Complainant's board member, impersonates the Complainant and its subsidiary, concealing the Respondent's identity and reinforcing its lack of rights or legitimate interests in the disputed domain name. The Panel finds that the composition of the disputed domain name and use of the Complainant's contact details and board member's name leads to an inference of wilful connection with the Complainant and that the Complainant has made out a prima facie case, calling for an answer from the Respondent. The Respondent has, however, not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name under these circumstances. The Panel accordingly finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

From the mere fact that the Respondent used the disputed domain name of one of the Complainant's board members and the corporate name and address of the Complainant's subsidiary in the United States, in combination with the disputed domain name comprising the Complainant's well-known LINDT trademark with the "sprungli" element of the Complainant's corporate name and

“inc” as the usual designation for an incorporation, the Panel infers that the Respondent must have had the Complainant and its LINDT trademark in mind when it registered the disputed domain name. The Panel is therefore satisfied that the disputed domain name was registered in bad faith.

The Complainant must also prove that the Respondent uses the disputed domain name in bad faith. The disputed domain name resolves to a website that uses the details of the Complainant’s subsidiary which strongly suggests that the Respondent deliberately attempted to attract internet users for commercial gain by creating confusion with the well-known LINDT brand of the Complainant, which results in a presumption of bad faith in this case. The Panel notes that the Complainant's contention that the Respondent, by creating and displaying the e-mail address under the disputed domain name in combination with the actual name and address of the Complainant's subsidiary in the United States, the intention of the Respondent is to entice internet users into sending emails to the Respondent in the assumption that they will be contacting the Complainant, has not been rebutted by the Respondent. Furthermore, the Respondent did not refute the Complainant's allegation that the Respondent configured the disputed domain name with multiple MX records, which strongly suggests that the Respondent uses the disputed domain name for phishing activities. The Panel considers the uncontested assertions of the Complainant to be plausible and is satisfied that the Respondent is using the disputed domain name in bad faith.

Therefore, the disputed domain name is to be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **lindtsprungliinc.com**: Transferred

PANELLISTS

Name	**Alfred Meijboom**

DATE OF PANEL DECISION 2025-03-21

Publish the Decision