Decision for dispute CAC-UDRP-107334

Case number	CAC-UDRP-107334
Time of filing	2025-02-19 09:15:15
Domain names	lindtisa.com, lindtsa.com, lindtua.com, lindtuaa.com, lindtuda.com, lindtuss.com, lindtysa.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Chocoladefabriken Lindt & Sprüngli AG

Complainant representative

Organization	SILKA AB

Respondent

Organization	Excella

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 names.

IDENTIFICATION OF RIGHTS

The Complainant has a substantial portfolio of registered national and international marks for the word mark LINDT in classes 30 and 32 including:

1. An EUTM for the word mark, LINDT, reg. no. 000134007 registered on September 7, 1998;

2. A US Mark for the word mark, LINDT, reg. no. 87306 registered on July 9, 1912;

3. A Swiss national mark for the word mark, LINDT, reg. no.2P-349150 registered on October 29, 1986.

The Complainant also has a portfolio of domain names including
include <lindt.com>, <lindt.ch>, <lindt.co.uk>, <lindt.se>, <lindt.com.nl>, <lindt.it>, <lindtusa.com>, <lindt.ca>, <lindt.com.br>, <lindt.jp>, <lindt.cn>, <lindt.com.au> and <lindt-spruengli.com.> As well as social media accounts.

The Complainant says it is a well-known or famous mark and it has been recognised in many previous decisions including: Chocoladefabriken Lindt & Sprüngli AG v. Dirk Zagers, CAC-UDRP-106852 (2024); Chocoladefabriken Lindt & Sprüngli AG v. gabriel araujo, CAC-UDRP-106723 (2024); Chocoladefabriken Lindt & Sprüngli AG v. Gilberto Lopes Teixeira Da Silva (Fox Intermediacoes Ltda), CAC-UDRP-106611 (2024); Chocoladefabriken Lindt & Sprüngli AG v. ARJONES NEGOCIOS LTDA, CAC-UDRP-106521 (2024) and Chocoladefabriken Lindt & Sprüngli AG v. Gabriel Schmidt, CAC-UDRP-106520 (2024).

FACTUAL BACKGROUND

The Complainant, founded in 1845, is a well-known chocolate maker based in Switzerland. It is a leader in the market of premium quality chocolate and has 11 production sites in Europe and the United States. Its many, over 2,500, products are distributed via 28 subsidiaries, 500 own retail shops and a comprehensive network of more than 100 distributors in over 120 countries. The Complainant has more than 14 thousand employees and made a revenue of CHF 5.2 billion in 2023.

The Respondent is one person, Candie Deloach (Excella) , with an address and a telephone number in the USA and he registered the disputed domain names.

The seven disputed domain names are <lindtisa.com>, <lindtsa.com>, <lindtua.com>, <lindtuaa.com>, <lindtuda.com>, <lindtuss.com> and <lindtysa.com> (collectively 'the disputed domain names').

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain names 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 names are 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 names (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 names have been registered and are 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

Under paragraph 4(a) of the UDRP, (the Policy), a complainant can only succeed in administrative proceedings if the panel finds:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and

(ii) the respondent has no rights or legitimate interests in respect of the domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

A complainant must prove that each of these three elements are present.

As to the first limb, there is no question about the Complainant's rights and it is a well-known and very famous mark. The seven disputed domain names each fully include and commence with the LINDT word mark and that is followed by the letters 'isa', 'sa', 'ua', 'uaa', 'uda', 'uss' and 'ysa' respectively. All are .coms. The limb of the Policy asks whether the Complainant has rights in a name or mark identical or similar to the disputed domain names. The .com suffix is ignored in this analysis. Adding generic words or other characters to a mark does not prevent a finding of confusing similarity. Also, see, for example, The Clorox Company v. WhoisGuard Protected, WhoisGuard, Inc. / Enos Villanueva, Melissa Rosenberg, Yang Ming, WIPO Case No. D2021-0603 ('The Panel finds that the disputed domain names reproduce the Complainant's trademark in its entirety. The addition of letters or other terms at the end of the disputed domain names does not avoid a finding of confusing similarity under the Policy which, as recognized by past UDRP panels, involves a "side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name"'). The Panel finds that Complainant has rights in a name or mark similar to the disputed domain names.

The Second Limb of the Policy is concerned with fair and legitimate use by a Respondent.

To demonstrate rights or legitimate interests in a domain name, under the UDRP paragraph 4(c) include the following:

(i) before any notice of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) the respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or

(iii) the respondent is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

A complainant is only required to make out a prima facie case that a respondent lacks rights or legitimate interests and then the burden shifts to the respondent to show it has rights or legitimate interests in the domain name. If it fails to do so, the complainant is deemed to have satisfied the limb in paragraph 4(a) (ii). See WIPO Case No. D2003-0455, Croatia Airlines d. d. v. Modern Empire Internet Ltd.

Past panels have held that a respondent was not commonly known by a disputed domain name if the WHOIS information was not similar to the disputed domain name. See the Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com>. The Respondent is not known by the disputed name in the WHOIS.Here the Respondent does not have trademark rights for, nor is it known by, or shown in the WHOIS by any name corresponding with or similar to any of the disputed domain names. The 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.

The Complainant says the Respondent is using the disputed domain names to redirect internet users through a series of sites specifically <newfastresult.com>, <gopjn.com> and <pepperjamnetwork.com>), eventually landing at URLs connected to the Complainant's official lindtusa.com website. It says these intermediary domain names are associated with one or more affiliate marketing and link redirection schemes; this is reflected by details in the landing URLs such as 'affiliate&utm_campaign'.

Through its use of the disputed domain names the Respondent is attempting to derive commercial gain from internet users that inadvertently mistype www.lindtusa.com in a URL bar, with the expectation of reaching the Complainant's offerings. It says such use unfairly capitalises on the Complainant's rights in the LINDT mark.

Also see WIPO Overview 3.0, section 2.5.3 ('Similarly, a respondent's use of a complainant's mark to redirect users […] would not support a claim to rights or legitimate interests.'); Instagram, LLC v. Ingramer, Wiseway SIA 40203255185, WIPO Case No. D2021-4364 ('In particular, the redirection of the disputed domain name to the

Complainant's website does not amount to a bona fide offering of goods or services.'); and Conforama France v. Benjamin Kouassi, WIPO Case No. D2021-1166 ('The Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use. Rather, the evidence demonstrates that the Respondent has used the disputed domain name to redirect Internet users to the Complainant's own website through the disputed domain name. [/] It is common view that use of the disputed domain name to redirect Internet users to the Complainant's own website cannot confer any rights or legitimate interests in the disputed domain name to the Respondent.').

The Panel finds the Complainant has presented a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names for the purposes of paragraph 4(a)(ii) of the Policy.

As to the third limb of the Policy, Bad Faith, the Complainant says the Respondent is free-riding and taking unfair advantage of its name and reputation.

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 names in bad faith, in accordance with paragraph 4(a)(iii).

It is submitted that the disputed domain names capitalise on, the Complainant's famous LINDT mark in bad faith as each disputed domain name reproduces the LINDT mark in full, only followed by groups of letters which each vary from the country identifier 'USA' by one character (whether through the substitution or removal of a letter). These additions are of a typosquatting nature (e.g., involving adjacent keys, such as 'i' instead of 'u' in <lindtisa.com> and 'y' instead of 'u' in <lindtysa.com>), designed to misleadingly capture internet users who have inadvertently misspelt the 'lindtusa.com' string in a URL bar. These can only sensibly refer to the Complainant; these registrations unequivocally reflect the Respondent's prior knowledge of, and intention to unfairly target, the Complainant's LINDT mark.

The Complainant submits that the Respondent has intentionally attempted to attract, for commercial gain, internet users by creating a likelihood of confusion with the LINDT mark. As described in respect of the second UDRP element, the Respondent has configured the disputed domain names to engage in one or more affiliate marketing and link redirection schemes.

If there is unfair and illegitimate use, there will often be bad faith. Here the Respondent did not come forward to explain his reasons for the selection of the disputed domain names and why there is no Bad Faith. It is clear that the Respondent was well aware of the marks and registered the disputed domain names with the intention of leveraging that reputation and goodwill and free-riding on it for profit.

The Panel finds the Complainant has discharged its burden and shown bad faith under this limb.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **lindtisa.com**: Transferred
2. **lindtsa.com**: Transferred
3. **lindtua.com**: Transferred
4. **lindtuaa.com**: Transferred
5. **lindtuda.com**: Transferred
6. **lindtuss.com**: Transferred
7. **lindtysa.com**: Transferred

PANELLISTS

Name	**Victoria McEvedy**

DATE OF PANEL DECISION 2025-04-04

Publish the Decision