Decision for dispute CAC-UDRP-107485

Case number	CAC-UDRP-107485
Time of filing	2025-04-16 11:29:12
Domain names	lindtbrazil.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Chocoladefabriken Lindt & Sprüngli AG

Complainant representative

Organization	SILKA AB

Respondent

Name	Marlene Fatima

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 has demonstrated ownership of rights in the trademark LINDT for the purposes of standing to file a UDRP complaint.

In particular, the Complainant is the owner of trademark registrations for LINDT including the following:

- International trademark registration No. 217838 for LINDT, registered on March 2, 1959;
- International trademark registration No. 622189 for LINDT, registered on July 12, 1994;
- Brazilian trademark registration No. 826413609 for LINDT, registered on August 14, 2007.

The Complainant also refers to ownership over the various domain names that incorporate its LINDT trademark, such as <lindt.com>, registered on December 16, 1997 and <lindt.com.br>, registered on March 3, 2009.

FACTUAL BACKGROUND

The Complainant, founded in 1845, is a chocolate maker based in Switzerland. The Complainant has 11 production sites in Europe and the United States and its more than 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 disputed domain name was registered on March 22, 2025, and at the time of filing of the complaint, it resolved to a website in Portuguese that impersonates the Complainant's official websites on the domain names <lindt.com> and <lindt.com.br>. At the time of the decision, the disputed domain name resolves to an inactive page.

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.

In particular, the Complainant argues that the disputed domain name is confusingly similar to its well-known LINDT trademark as this trademark is contained in its entirety within the disputed domain name. Further, the Complainant contends that ".com" gTLD is viewed as a standard registration requirement and as such is disregarded.

Regarding the second UDRP element, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark, or apply for registration of the disputed domain name by the Complainant. The Respondent is also not commonly known by the disputed domain name. The Respondent has used the disputed domain name for a website that impersonates Complainant´s official website which cannot be considered as use in connection with a bona fide offering of goods or services.

With respect to the third UDRP element, the Complainant holds that its LINDT trademark is well-known and that the Respondent has registered the disputed domain name with actual knowledge of the Complainant's trademark. The fact that the disputed domain name was used for a website that impersonates the Complainant's official website clearly indicates the Respondent's awareness of the Complainant and its LINDT trademark. Such use of the disputed domain name also clearly demonstrates bad faith on the Respondent's side. Finally, although now the disputed domain name does not resolve to any active website, that wouldn't prevent finding of bad faith in accordance with the doctrine of passive holding.

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

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy stipulates that the complainant must prove each of the following:

- that the disputed domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- that the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- that the disputed domain name has been registered and is being used in bad faith.

1. **Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name, as stipulated in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("WIPO Overview 3.0").

The Complainant has shown rights in respect of the LINDT trademark for the purposes of the Policy (WIPO Overview 3.0, section 1.2.1).

The entirety of the Complainant's trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Complainant's trademark for the purposes of the Policy (WIPO Overview 3.0, section 1.7).

Although the addition of other terms, here "brazil", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark for the purposes of the Policy (WIPO Overview 3.0, section 1.8).

In addition, it is well established that ".com", as a generic Top-Level Domain, can be disregarded in the assessment of the confusing similarity between the disputed domain name and the Complainant's trademark (WIPO Overview 3.0, section 1.11.1).

The Panel, therefore, finds that the first element of the Policy has been established.

1. **Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

In particular, the Panel notes that there appears to be no relationship between the Respondent and the Complainant and that the Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant's LINDT trademark. There appears to be no element from which the Panel could infer the Respondent's rights and legitimate interests in the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

Furthermore, based on the undisputed evidence provided by the Complainant, the disputed domain name was used for a website in Portuguese that impersonates the Complainant's official websites on the domain names <lindt.com> and <lindt.com.br>. Such behavior of the Respondent represents a type of Internet fraud and previous panels have consistently held that use of a disputed domain name for such purposes cannot be considered as a bona fide offering of goods or services nor as a legitimate noncommercial or fair use of the disputed domain name. In connection with the above, it should be noted that panels have held that the use of a domain name for illegal activity (such as impersonation of the Complainant and passing-off as in this case) can never confer rights or legitimate interests on a respondent (WIPO Overview 3.0, section 2.13.1).

The Panel also finds that the structure of the disputed domain name, which contains the Complainant's LINDT trademark in combination with the geographical term "brazil", carries a high risk of implied affiliation (see WIPO Overview 3.0, section 2.5.1). This additional word closely corresponds to the Complainant, who has been present in the Brazilian market for a long period of time and may imply sponsorship or endorsement by the Complainant.

Having in mind the above, the Panel finds the second element of the Policy has been established.

1. **Registered and Used in Bad Faith**

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith (see WIPO Overview 3.0, section 3.2.1).

Regarding the registration of the disputed domain name in bad faith, the Panel holds that the Respondent had the Complainant in mind when registering the disputed domain name. The Complainant's LINDT trademark has been registered and used long before the Respondent registered the disputed domain name, so it is unlikely that the Respondent was not aware of this trademark. Furthermore, the content of the website to which the disputed domain name used to resolve leaves no room for a doubt on the Respondent's knowledge of the Complainant and its LINDT trademark and evidences that the Respondent actually had the Complainant in mind when registering the disputed domain name.

Due to the above, the Panel finds that the disputed domain name has been registered in bad faith.

As indicated above, based on the undisputed evidence provided by the Complainant, the disputed domain name used to resolve to a website in Portuguese that impersonates the Complainant's official websites on the domain names <lindt.com> and <lindt.com.br>. Such fraudulent behavior manifestly indicates bad faith on the Respondent's side. In that sense, panels have held that the use of a domain name for illegal activity (such as impersonation of the Complainant and passing-off) constitutes bad faith (WIPO Overview 3.0, section 3.4). Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

While the disputed domain name no longer resolves to an active website, such change of use and current passive holding does not prevent a finding of bad faith given the totality of the circumstances of the case at hand (WIPO Overview 3.0, section 3.3).

The Panel finds that the disputed domain name has been both registered and is being used in bad faith, and consequently that the Complainant has established the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **lindtbrazil.com**: Transferred

PANELLISTS

Name	**Stefan Bojovic**

DATE OF PANEL DECISION 2025-05-21

Publish the Decision