Decision for dispute CAC-UDRP-107513

Case number	CAC-UDRP-107513
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Domain names	lindtdobrazil.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 states that it is the owner of the following trademark registration:

- national registration (Germany) “LINDT” No. 91037, registered on 27 September 1906, for the goods in class 30;
- national registration (United States) “LINDT” No. 87306, registered on 9 July 1912, for the products in class 46;
- national registration (Canada) “LINDT” No. UCA26258, registered on 17 October 1946, for the goods in class 30;
- national registration (Switzerland) “LINDT” No. 2P-349150, registered on 29 October 1986, the goods in classes 30, 32;
- national registration (Australia) “LINDT” No. 704669, registered on 14 March 1996, for the goods in class 30;
- national registration (Brazil) “LINDT” No. 826413609, registered on 14 August 2007, for the services in class 35;
- international registration “LINDT” No. 217838, registered on 2 March 1959, for the products in class 30;
- international registration “LINDT” No. 622189, registered on 12 July 1994, for the goods in class 30;
- international registration “LINDT” No. 936939, registered on 27 July 2007, for the goods and services in classes 6, 14, 16, 18, 21, 25, 28, 41;
- EUTM registration “LINDT” No. 000134007, registered on 7 September 1998, for the products in class 30.

The Complainant proved Its ownership of the named trademark registration by the submitted extract from the WIPO Global Brand Database.

FACTUAL BACKGROUND

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The Complainant (founded in 1845) is a well-known chocolate maker based in Switzerland. The Complainant is a leader in the market of premium quality chocolate with a comprehensive network of more than 100 distributors in over 120 countries. The Complainant has more than 14 thousand employees and made revenue of CHF 5.2 billion in 2023.

The Complainant holds numerous domain names which encompass the “LINDT” mark, and these are used to advertise the Complainant’s goods and services across a wide range of territories around the world. These registrations include, among others, <lindt.com>, <lindt.com.br>, <lindt.ch>, etc.

The Complainant has a strong social media presence with, for example, seven million followers on Facebook, more than 180 thousand followers on Instagram, and over 140 thousand followers on LinkedIn.

The Complainant places great value on its intellectual property rights and has been diligent in protecting its intellectual property and in preventing the unauthorized use thereof. The Complainant has been successful in many previous domain name dispute proceedings involving the “LINDT” trademark.

The disputed domain name <lindtdobrazil.com> (hereinafter “disputed domain name”) was registered on 7 April 2025. According to the Registrar, the Respondent is ‘Marlene Fatima’. The Respondent provided an address as being in Brazil.

PARTIES CONTENTIONS

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

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 UDRP).

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 UDRP).

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 UDRP).

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 present case, the Respondent has not submitted any Response and consequently has not contested any of the contentions made by the Complainant. Therefore, the Panel proceeds to decide only on the basis of the Complainant’s factual statements and the documentary evidence provided in support of them [Paragraph 5(f) of The Rules].

1. CONFUSING SIMILARITY

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark.

The WIPO Overview 3.0 in Paragraph 1.2.1 states: "Where the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case."

The WIPO Overview 3.0 in Paragraph 1.7 states: "[…] in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing."

The WIPO Overview 3.0 in Paragraph 1.8 states: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element."

In the present case, the Complainant has established that it owns numerous national (including Brazil) and international trademark registrations for the "LINDT" word, protected for the classes in connection with chocolate products (proved by the extract from the WIPO Global Brand Database).

The disputed domain name <lindtdobrazil.com> contains the Complainant's trademark "LINDT" in its entirety, with the mere addition of the general term "do brazil". The Portuguese term "do Brazil" means "from/of Brazil" in English. Therefore, it might be an indication of the origin. As such, it is a general descriptive/geographical term. The addition of this general term cannot prevent a finding of confusing similarity.

The disputed domain name is considered to be confusingly similar to the relevant trademark.

The ".com" element of the disputed domain names does not affect the finding of confusing similarity.

As a result, the Panel finds that the Complainant has satisfied Paragraph 4(a)(i) of the UDRP.

2. THE RESPONDENT´S LACK OF RIGHTS OR LEGITIMATE INTEREST IN THE DISPUTED DOMAIN NAME

The Panel finds that the Respondent lacks rights or legitimate interest in the disputed domain name.

According to Paragraph 4(a)(ii) of the UDRP, the Complainant shall make a case that the Respondent lacks rights and legitimate interests in the disputed domain name. If the Complainant fulfils this demand the burden of proof shifts to the Respondent and so the Respondent shall demonstrate rights or legitimate interests in the disputed domain name. If the Respondent fails to prove its rights or legitimate interests, it is assumed that the Complainant satisfied the element of Paragraph 4(a)(ii) of the UDRP (see CAC Case No. 102430, Lesaffre et Compagnie v. Tims Dozman). Moreover, past panels were of the view that it is difficult or sometimes impossible to prove negative facts, i.e., absence of rights or legitimate interest on the part of the Respondent. In this respect, past panels referred to the WIPO Case No. D2000-1769, Neusiedler Aktiengesellschaft v. Vinayak Kulkarni. Within the meaning of Paragraph 4(a)(ii) of the UDRP, once the complainant has made something credible (prima facie evidence), the burden of proof shifts to the Respondent to show that he has rights or legitimate interests in the domain name at issue by providing concrete evidence.

The WIPO Overview 3.0 in Paragraph 2.5.1 states: "Generally speaking, UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation. Even where a domain name consists of a trademark plus an additional term (at the second- or top-level), UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner."

The WIPO Overview 3.0 in Paragraph 2.13.1 states: "Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent."

In 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 Panel stated that: "Here, the WHOIS information of record identifies Respondent as 'Chad Moston / Elite Media Group.' The Panel therefore finds under Policy ¶ 4(c) (ii) that Respondent is not commonly known by the disputed domain name under Policy ¶ 4(c) (ii)."

In the present case, the Complainant claims that the Respondent is not affiliated with/authorized by the Complainant in any way to make use of the "LINDT" trademark.

The Complainant claims it has built up a good reputation and has invested substantial resources in promoting its product globally under the "LINDT" mark. The disputed domain name has a recent registration as of 7 April 2025, while the Complainant has been using the "LINDT" trademark since the nineteenth century and has a strong presence in Brazil at <lindt.com.br> (evidenced by a screenshot of the Complainant's official website in Brazil). According to the Complainant, the disputed domain name registered by the Respondent is intended to take advantage of the Complainant's substantial reputation and goodwill to confuse the public, divert business and tarnish the Complainant's reputation in Brazil.

The Complainant adds that the disputed domain name is not made up of generic or descriptive terms such as 'Chocolate Do Brazil'; instead, it incorporates the Complainant's distinctive trademark "LINDT". The Respondent cannot be said to have legitimately chosen to use the disputed domain name unless it was seeking to create an impression of an association with the Complainant.

Any person or entity using “LINDT” trademark in a domain name is bound to lead customers and users to infer that its product or service has an association or affiliation with the Complainant and lead to confusion and deception.

The Complainant asserts that the Respondent has not made use of the disputed domain name in connection with a bona fide offering of goods or services. The Complainant submitted a screenshot of the website under the disputed domain name, which shows that the disputed domain name leads Internet users to a website impersonating the Complainant’s official website at <lindt.com.br> (screenshot of the official website was also submitted). After the Complainant’s notice (for the trademark abuse) to the disputed domain name’s registrar, the website was suspended. According to the Complainant, the apparent use of the disputed domain name was to disrupt the Complainant’s business by attracting Internet users for commercial gain by creating a likelihood of confusion and capitalizing on the Complainant’s trademark, redirecting website visitors to a replica website. From the Complainant’s view it is evident that the Respondent, through the use of the disputed domain name, deliberately tried to portray a connection with the Complainant and thereby intended to “pass off” as the Complainant herein and have a free ride on its reputation and goodwill.

Furthermore, the Respondent is not identified in the submitted WHOIS information. As a result, the Respondent cannot be known under the disputed domain name.

To the satisfaction of the Panel, the Complainant made a prima facie case that there is no connection between the Complainant and the Respondent and that the Respondent does not have authorization in the disputed domain name from the Complainant.

Moreover, it was evidenced by the Complainant that the Respondent tried to imitate the Complainant’s official website using and taking advantage of the Complainant’s well-known trademark in order to attract Internet users for her own commercial gain. The Complainant’s trademark is used in its entirety in the disputed domain name. The Respondent must have been aware of the Complainant and its business activities in Brazil at the moment of registering the disputed domain name. In this regard, the Panel cannot see any bona fide activities from the Respondent.

The absence of identification in the WHOIS information supports this finding.

The Respondent did not file any Response to the Complaint. Thus, the Respondent failed to demonstrate rights or legitimate interest in the disputed domain name.

Therefore, the Panel finds that the Complainant has satisfied the requirement under Paragraph 4(a)(ii) of the UDRP.

3. THE REGISTRATION AND USE OF THE DISPUTED DOMAIN NAME IN BAD FAITH

The Panel finds that the Respondent registered and used the disputed domain name in bad faith.

The WIPO Overview 3.0 in Paragraph 3.1.4 states: “Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith […] Panels have moreover found the following types of evidence to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant’s mark: (i) actual confusion, (ii) seeking to cause confusion (including by technical means beyond the domain name itself) for the respondent’s commercial benefit, even if unsuccessful, (iii) the lack of a respondent’s own rights to or legitimate interests in a domain name, (iv) redirecting the domain name to a different respondent-owned website, even where such website contains a disclaimer, (v) redirecting the domain name to the complainant’s (or a competitor’s) website, and (vi) absence of any conceivable good faith use.“

The WIPO Overview 3.0 in Paragraph 3.6 states: “In terms of underlying respondent identity, panels treat privacy and proxy services as practical equivalents for purposes of the UDRP, and the fact that such services may be employed to prevent the complainant and panel from knowing the identity of the actual underlying registrant of a domain name does not prevent panel assessment of the UDRP elements.”

In the WIPO Case No. D2021-1802, PRADA S.A. v. Domain Administrator, See PrivacyGuardian.org / Zan zhang, the Panel stated: “The website corresponding to the disputed Domain Name displays products bearing the mark PRADA and images of the Complainant’s products for sale with the clear intention to attract, for commercial gain, Internet users to its website, by creating confusion and/or association with the Complainant’s trademarks. This Panel finds that the Respondent’s attempt of taking undue advantage of the trademark PRADA for commercial gain as described in paragraph 4(b)(iv) of the Policy has been demonstrated. For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, i.e., the disputed Domain Name has been registered and is being used in bad faith.”.

In the WIPO Case No. D2020-2116, VFS Global Services Private Limited v. WhoisGuard, Inc., Quijano & Associates / Narendra Singhmanushi, the Panel stated: “The Panel also determines that the Respondent’s use of the privacy protection service, WhoisGuard in the circumstances of the present case constitutes additional evidence of bad faith. Absent any explanation from the Respondent, the Panel cannot conceive of any plausible good faith use of the disputed Domain Name that could be made by the Respondent. The Respondent’s conduct in registering the disputed Domain Name therefore constitutes opportunistic bad faith.”

In the present case, the Complainant has established that it owns numerous national (including Brazil) and international trademark registrations for the “LINDT” word, protected for the classes in connection with chocolate products (as proved by the extract from WIPO Global Brand Database).

From the Panel’s view, the disputed domain name is confusingly similar. This finding also indicates bad faith of the Respondent.

From the submitted information about the Complainant, its social media presence and its trademarks, it is obvious that the Complainant has a certain reputation worldwide. The business activities of the Complainant date back to the 19th century.

From the furnished screenshot of the Google search, the wording “Lindt Do Brazil” leads Internet users to information concerning the Complainant.

As was evidenced by the submitted screenshot of the website under the disputed domain name, the disputed domain name led Internet users to the “LINDT” Brazil mirror page. Without any authorization, the Respondent used the “LINDT” trademarks, official images, design and products on the website. Since there is no affiliation between the Complainant and the Respondent, this activity supports the finding that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the website, by creating a likelihood of confusion with the Complainant and Its trademarks. Such use cannot be understood as being in the good faith.

The website under the disputed domain name was suspended by the Registrar, after the Complainant’s trademark abuse notice. At the moment, the Respondent is passively holding the disputed domain name.

The Panel is of the opinion that the Respondent must have been aware of the Complainant and Its trademarks at the moment of registering the disputed domain name on 7 April 2025.

The Respondent’s identity is hidden in the WHOIS information. Therefore, the Respondent cannot be recognized under the disputed domain name, which is underlying the indication of the Respondent’s bad faith.

Overall, it might be concluded that the Respondent did not register and is not using the disputed domain name in good faith.

Following the above-mentioned, the Panel finds that the Complainant has satisfied conditions pursuant to Paragraph 4(a)(iii) of the UDRP.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **lindtdobrazil.com**: Transferred

PANELLISTS

Name	**Radim Charvát**

DATE OF PANEL DECISION 2025-06-02

Publish the Decision